



Safer Recruitment

Through Better Recruitment

September 2023

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Ministerial foreword

Our vision is a socially just Scotland with excellent social services delivered by a skilled and valued workforce which works with others to empower, support and protect people, with a focus on prevention, early intervention and enablement.

It is therefore critical to ensure we are recruiting people to social care and social work who are not only equipped with the correct skills, but who also share the core values necessary to ensure people using care, especially our most vulnerable, are kept safe and given a world-class standard of support.

'Safer Recruitment through Better Recruitment', jointly authored by the Scottish Social Services Council (SSSC) and the Care Inspectorate is fundamental to the delivery of that ambition.

The skills, experience, qualifications and values of those working with vulnerable people are of critical importance and this represents a big responsibility on the part of employers within the sector. It is right that they should have a range of safer recruitment and selection practices in place to ensure all people working in social work and social care are appropriately skilled and suitable for the challenges of this often difficult yet rewarding work.

This newly updated iteration of 'Safer Recruitment Through Better Recruitment' replaces the previous version of this resource from 2016, which was itself preceded by the 2007 safer recruitment guidance for the sector.

The latest publication updates the guidance to help employers, especially those in social care, early education and childcare, and social work to meet existing legislative and regulatory requirements in relation to the safer recruitment and selection of people who work with individuals who receive support and care from social services in Scotland.

It is important to highlight that this good practice guidance is not only about advising employers on how they comply with employment and equalities legislation, but that it has evolved beyond those key aims, in lockstep with our longstanding national ambition and ongoing commitment to strive for improvement.

Accordingly, it has been revised and updated to better assist in widening the diversity of the workforce, promoting values-based recruitment and as far as possible addressing the recruitment challenges currently facing the sector.

Some of the most positive additions I believe will prove particularly impactful are:

- New sections on promoting recruitment of people with disabilities, young people and care experienced people, which reflect changes and increased expectations regarding human rights and values-based recruitment
- Refreshing of the language and tone to ensure it is clearer, with a view towards supporting higher levels of recruitment and a more diverse workforce in a more positive and less risk averse way

- Updated information on changes to employment and equalities law and employer duties
- Updated information and guidance on the PVG scheme and reducing discrimination against people with criminal convictions
- A new section on digitally assisted recruitment
- More flexibility regarding exceptional circumstances, supporting short notice recruitment and the use of application forms
- Signposting for employers to ensure they have access to the latest information and support available to assist with effective recruitment

Notwithstanding the importance of embracing change and ensuring innovation, the maintaining of standards in the sector will always remain fundamental. SSSC and the Care Inspectorate, as regulators responsible for upholding standards in services and the workforce in Scotland, have worked closely to ensure those principles underpin the updated practices here.

They have utilised extensive engagement and input from a wide range of experienced partners, to deftly identify where and how some of the rules regarding recruitment in the sector can be made more flexible, while maintaining essential safeguards throughout.

The various groups who have contributed to this work have provided valuable insight and expertise and I am grateful to them for their important contributions, particularly those focussing on further ensuring inclusiveness and diversity, which enriches, not only this guidance but the people and communities across Scotland, especially our most vulnerable.

Those who work in Scotland's social services deliver quality care and support to individuals, families and communities across our country every day. This work is life changing and valuable however it is also extremely challenging and the demands upon those who provide care cannot be underestimated.

In that same spirit, employers within the sector will wish to follow the good practice contained in this guidance to ensure they are positively and appropriately encouraging, recruiting, and supporting a workforce at the forefront of delivering a Scotland, where values of equality, social justice and compassion provide a lasting foundation to improve outcomes and support all people to achieve their potential.



Maree Todd MSP

Minister for Social Care, Mental Wellbeing and Sport

August 2023

Introduction

This resource provides good practice guidance intended to help employers, especially those in social care, early learning and childcare and social work to meet existing legislative and regulatory requirements in relation to the safer recruitment and selection of people to work with people experiencing care and support services in Scotland. This guidance applies to workers being recruited into roles providing care and support, however some of it will also be relevant to ancillary workers with specific roles and some contact with people experiencing care. This joint SSSC and Care Inspectorate guidance updates the previous version from 2016, which replaced the original Scottish Government's national guidance from 2007.

This guidance supports employers to safely recruit suitable staff for a range of roles involved in providing care and support. This includes setting out robust recruitment processes that can help employers ensure that unsuitable staff do not gain access to children or protected adults.

Providing care and support is highly skilled work, which demands high levels of trust and responsibility, with some people being more suitable than others. Staff can hold considerable power over people experiencing care and need to be able to be trusted to use this authority and responsibility well. Best practice recruitment approaches are crucial to ensure that the right people, with suitable skills and values, are recruited. Ensuring that the skills, values and attitudes of potential employees match the post being recruited to is an important element of building a strong, stable staff team which supports better outcomes for people.

This guidance supports employers to:

- fulfil legal responsibilities regarding the recruitment of paid staff
- increase equality and diversity within the social care workforce
- comply with the Scottish Social Services Council's (SSSC) Code of Practice for Employers of Social Service Workers
- implement the Scottish Government's Health and Social Care Standards ('the Standards')
- apply the Care Inspectorate's quality frameworks for use in self-evaluation, scrutiny and quality improvement support.

Aligned with the relationship-based Standards, this guidance focusses on the importance of personal qualities and values when recruiting suitable staff. The SSSC's ['Right values, right people: recruitment toolkit'](#) provides a helpful resource for employers to support values-based recruitment. This toolkit helps employers identify and then embed their values in the recruitment and selection process, with links to a range of tools produced by Skills for Care. Scottish Government has also produced a helpful minority ethnic recruitment toolkit for employers to improve diversity and promote racial diversity in the workforce.

The guidance reflects the need to attract more people to work in the care sector and to develop new and creative methods from how we have traditionally recruited that reflect developments in

society and technology. Before Covid-19, social care was already experiencing systemic problems - in recruitment and retention, as highlighted by the SSSC and Care Inspectorate's joint 'Staff vacancies in the care sector' [reports](#). The pre-pandemic position- in staff planning across the whole care sector was also set out in the Scottish Government's 'National Health and Social Care Workforce Plan Part 2 – a framework for improving workforce planning for social care in Scotland'. This situation has been exacerbated by both the pandemic and Brexit and the '[National Workforce Strategy for Health and Social Care in Scotland](#)' was updated in response.

In order to address the current staffing problem across the sector, recruitment practice needs to change alongside terms and conditions being enhanced through the [Fair Work Framework](#). We therefore need to widen our recruitment focus to bring new people into the profession and address a growing staffing shortfall. This will also help reduce instances of large numbers of staff being recruited from one part of the care sector at the expense of another. The SSSC's careers website www.careersincare.scot shows how someone can build a career working with children and young people, in social services and healthcare settings or as a social worker. This easy-to-use website has lots of useful information including:

- career stories from real social service workers
- interactive qualification pathways to show how to enter the sector and progress in your career
- links to opportunities to work, train or study
- frequently asked questions with advice about funding, qualifications and more
- a toolkit of resources for employers, employment support workers and careers advisers.

The SSSC's Open Badges are popular and accessible bite size online courses for people working in social care and you may find their Open Badges on [Recruitment](#) and [Induction](#) are helpful in taking on new staff. For someone considering whether to join the care profession, the interactive [online challenge](#) produced by a Question of Care in partnership with the SSSC is another useful tool to help their decision-making process.

The SSSC's Career Ambassador scheme also allows employers to nominate employees who are passionate about sharing their career story to inspire others, which you may find helpful. Careers Ambassadors often take part in online or in-person employability sessions. Learn more at <https://www.sssc.uk.com/careers-and-education/careers-ambassadors/>

The current lack of diversity within the social care workforce - in gender, race and disability also presents a recruitment opportunity, and the guidance has been developed to reflect this. While the data for the gender composition of the workforce is well established, the data for race and disability is less well established due to the number of unknown responses regarding these aspects. As well as ensuring that recruitment practice complies with the Equality Act 2010 and does not discriminate against people with protected characteristics, employers should consider the promotion of equality and diversity at each stage of the recruitment process.

The joint SSSC/Care Inspectorate working group reviewing the 2016 guidance included representation from Disclosure Scotland, Scottish Care and the Coalition of Care and Support Providers in Scotland. The group consulted with key stakeholder organisations and carried out a targeted consultation exercise on the draft version. We welcome feedback on this guidance and suggestions for changes and additions.

In this document each stage of the recruitment process has been presented sequentially so that employers can more easily obtain the level of detail they require about a particular issue. Links to relevant tools, resources and publications have been embedded through the guidance.

The CIPD (Chartered Institute of Personnel and Development) also produces good practice resources and advice on recruitment and this guidance has been designed to complement these.



Purpose

This guidance is designed to help employers to:

- meet legal and regulatory requirements
- be satisfied that each candidate has demonstrated their suitability for the specific position
- be satisfied, as far as possible, at each stage of recruitment and selection that the candidate is safe to practice
- be satisfied that the best candidate(s) have been selected
- be satisfied of the candidate's identify, qualifications, registration and right to work status
- involve people who experience care in recruitment and selection
- contribute to increasing the diversity of the social care workforce.

This guidance is not however - a comprehensive guide to recruitment and selection or employment issues. It does not cover all issues relevant to that subject. You will need to seek your own human resources or legal advice when appropriate. Neither is it a substitute for training in those areas, or in interviewing and assessment techniques. This guidance does not oblige you to follow every detail described in each section but is presented to help support effective practice.

This guidance has been designed to be most helpful when recruiting staff to work in the regulated social care services as set out below, but it is also relevant to other care and support settings such as statutory social work and people using Self-Directed Support:

- a support service, including a day centre for adults
- care at home
- a care home
- school care accommodation
- a nurse agency
- a childcare agency
- secure accommodation
- offender accommodation
- adoption and fostering
- adult placement
- child minding
- day care of children
- housing support
- social work provision
- justice social work and community justice.

Although not written for the recruitment of personal assistants some of the information in this guidance may be helpful in this context. There is also a Handbook for personal assistant employers: <https://www.sdsscotland.org.uk/pa-employer-handbook-launched/>

The care sector is very diverse - in its types of employer which range from local authority providers to charities and family businesses. Some aspects of this guidance will therefore be more relevant for some providers and settings than others. Most staff working in these settings will be registered with the SSSC or another professional regulator, and the guidance is also applicable to non-registered staff.

Complying with the SSSC's Code of Practice

The [SSSC's Code of Practice for Employers of Social Service Workers](#), issued in accordance with the Regulation of Care (Scotland) Act 2001 and its associated Statutory Instruments, opens with statements on recruitment:

- "1. As a social service employer, you must make sure people are suitable to be social service workers and that they understand their roles and responsibilities. You will:
- 1.1 Use thorough recruitment processes to make sure that only suitable people with appropriate attitudes and values, and the potential to gain the necessary knowledge and skills, enter the workforce.
 - 1.2 Check criminal records and registers and follow relevant guidance when assessing whether a person can carry out the duties of the job they have been selected for. You must do this before you appoint them.
 - 1.3 Ask for and provide accurate and appropriate references to share information relating to a person's suitability to work in social services.
 - 1.4 Give workers clear information about their roles and responsibilities, relevant legislation and the policies and procedures they must follow in their work."

The Care Inspectorate has a statutory duty to check that providers are complying with the Code of Practice and can take enforcement action if necessary.

Complying with the Public Services Reform (Scotland) Act 2010

Made under the Public Services Reform (Scotland) Act 2010, the Social Care and Social Work Improvement Scotland (Requirements for Care Services) Regulations 2011 ('the 2011 Regulations') require providers of registered services to comply with the following with regard to the fitness of managers and employees:

"Fitness of managers

- 7.— (1) A person must not act as a manager in relation to a care service unless the person is fit to do so.
- (2) The following persons are unfit to act as a manager in relation to a care service:
- (a) any person to whom regulation 6(2)(a) applies;
 - (b) any person who has been convicted whether in the United Kingdom or elsewhere of any offence which is punishable by a period of imprisonment of not less than 3 months and has been sentenced to imprisonment (whether or not suspended or deferred) for any period without the option of a fine and who, in the reasonable opinion of the provider of the care service having regard to the circumstances of the conviction is unsuitable to be a manager in relation to a care service;
 - (c) a person who does not have the skills, knowledge and experience necessary for managing the care service; and
 - (d) a person who, in order to perform the duties for which the person is employed in the care service, is required by any enactment to be registered with any person or body and is not so registered.

Fitness of employees

- 9.—(1) A provider must not employ any person in the provision of a care service unless that person is fit to be so employed.
- (2) The following persons are unfit to be employed in the provision of a care service: —
- (a) any person who has been convicted whether in the United Kingdom or elsewhere of any offence which is punishable by a period of imprisonment of not less than 3 months and has been sentenced to imprisonment (whether or not suspended or deferred) for any period without the option of a fine and who, in the reasonable opinion of the manager of the care service having regard to the circumstances of the conviction, is unsuitable to work in a care service;
 - (b) a person who does not have the qualifications, skills and experience necessary for the work that the person is to perform;
 - (c) any person to whom regulations 6(2)(a) or 7(2)(d) apply."

Regulation 6(2)(a) provides that: "The following persons are unfit to provide a care service:- (a) a person who is not of integrity and good character."

There are a limited number of offences under the Public Services Reform (Scotland) Act 2010, but significantly the 2011 Regulations make it an offence for a person who is unfit to act as a manager in relation to care service and for the provider of care service to employ a person in the provision of the care service unless they are fit to be so employed.

Implementing the Health and Social Care Standards

The Standards were introduced by the Scottish Government in 2018. They must be taken into account by the SSSC and the Care Inspectorate when regulating workers and services and they emphasise how important staff are to providing good quality care. The Standards reflect that relationships between people experiencing and providing direct care and support determine quality more than policies, procedures and processes, with one of the five headings of the Standards being “I have confidence in the people who support and care for me”.

Written from the perspective of someone experiencing care, many of the individual Standards under this heading describe the qualities and behaviours expected of staff to provide respectful, dignified and compassionate care:

- “3.1 I experience people speaking and listening to me in a way that is courteous and respectful, with my care and support being the main focus of people’s attention.
- 3.2 If I experience care and support where I live, people respect this as my home.
- 3.3 I have agreed clear expectations with people about how we behave towards each other, and these are respected.
- 3.6 I feel at ease because I am greeted warmly by people and they introduce themselves.
- 3.7 I experience a warm atmosphere because people have good working relationships.
- 3.8 I can build a trusting relationship with the person supporting and caring for me in a way that we both feel comfortable with.
- 3.9 I experience warmth, kindness and compassion in how I am supported and cared for, including physical comfort when appropriate for me and the person supporting and caring for me.
- 3.10 As a child or young person I feel valued, loved and secure.
- 3.13 I am treated as an individual by people who respect my needs, choices and wishes, and anyone making a decision about my future care and support knows me.
- 3.14 I have confidence in people because they are trained, competent and skilled, are able to reflect on their practice and follow their professional and organisational codes.
- 3.18 I am supported and cared for sensitively by people who anticipate issues and are aware of and plan for any known vulnerability or frailty.
- 3.19 My care and support is consistent and stable because people work together well”.

With employers having responsibility for recruitment, the most relevant Standards come under the heading “I have confidence in the organisation providing my care and support”:

“4.9 I can take part in recruiting and training people if possible.

4.24 I am confident that people who support and care for me have been appropriately and safely recruited.”

The SSSC’s series of Open Badges on the Standards are very popular for new recruits joining the social care sector.

Applying the Care Inspectorate's quality frameworks

The Care Inspectorate's quality frameworks have been developed to take the Standards into account. They focus on people's lived experiences, their outcomes and on supporting improvement in the quality of care. For different settings and service types, the quality frameworks set out the elements that help answer key questions about the difference care is making to people. The primary purpose of a quality framework is to support services to evaluate their own performance. The same framework is then used by inspectors to provide independent assurance about the quality of care and support.

Each framework covers recruitment under 'Key Question 3: How good is our staff team?', with the following quality indicator:

"Quality indicator 3.1: Staff have been recruited well

Key areas include the extent to which:

- people benefit from safer recruitment principles being used
- recruitment and induction reflect outcomes for people experiencing care
- induction is tailored to the training needs of the individual staff member and role."

This quality indicator is described using quality illustrations for two levels on the six-point grading scale used in inspections.

The framework for support services (care at home, including supported living models of support), for example, provides the following illustration of 'very good' performance:

"People can be confident that staff are recruited in a way that has been informed by all aspects of safer recruitment guidance, including a strong emphasis on values-based recruitment. The process is well organised and documented so that core elements of the procedure are followed consistently. People using the service have opportunities and the necessary support to be involved in the process in a meaningful way that takes their views into account, including in recruitment decisions. Staff do not start work until all preemployment checks have been concluded and relevant mandatory training has been completed to ensure people are kept safe. There is a clear link between the needs of people and the skills and experience of the staff being recruited. A range of supports is in place to encourage staff retention.

The induction is thorough and has been developed to enable staff to support the outcomes of people in the particular setting. This includes an emphasis on implementing the Standards as underpinning values for all care and support. There is a clear plan as to what is included and how this will be delivered with sufficient time to ensure that staff can understand all the information and what is expected of them. During the induction period, feedback is sought from people using the service and family members where appropriate, to help evaluate staff members' values, communication and development needs.

Throughout the recruitment process, individual learning needs and styles are taken into account. There is likely to be a range of learning styles, for example the opportunity for face-to-face discussion and shadowing of more experienced staff. Staff are clear about their roles and responsibilities, with written information they can refer to and a named member of staff for support. Staff are clear about their conditions of employment and the arrangements for ongoing supervision and appraisal. There is additional supervision in the first few months to discuss any learning needs or issues.”

The quality illustration of a support service with a ‘poor’ performance regarding recruitment, on the other hand, states:

“There is insufficient attention paid to understanding why safer recruitment is important, which may put people at risk. Key elements of processes may be ignored, for example exploring gaps in employment records or checking that references come from a previous employer. Even where good recruitment policies are written, they may not be thoroughly implemented consistently, for example only one reference is obtained and staff start to work alone before their membership of the Protection of Vulnerable Groups Scheme has been confirmed. The service may not fully understand the skill set and experience it needs to provide high-quality care and support for the people who are using the service.

The values and motivation of potential staff may not have been explored as part of the recruitment process and may not inform recruitment decisions. Staff start work before they have sufficient knowledge and skills. They may have had no induction or it may have been brief and patchy or too much covered too quickly for it to be effective. New staff may only have the opportunity for a minimum period of shadowing and there is limited structure for additional discussions about their learning needs, either through supervision or a mentor.

The induction may be generic, have not been reviewed recently, or may not include effective input about the Health and Social Care Standards.”

The quality frameworks used for self-evaluation and joint inspection of local authorities and partnerships also cover recruitment, including for example the following key factors in the quality framework for children and young people in need of care and protection for strategic inspection of services for children and young people:

- “partners clearly identify their human resource requirements to provide a high-quality service to vulnerable children, young people and families.
- a joint workforce strategy is in place and takes account of current and future staffing, succession and absence planning.
- principles of equality and fairness underpin recruitment and retention practices.
- multi-disciplinary working and teamwork are thoroughly established in day-to-day practice with children and young people in need of care and protection.”

Equality, diversity and inclusion

Diversity, equality, equity or inclusion?

The CIPD report on [Building Inclusive Workplaces](#) defines what diversity, equality, equity and inclusion mean. The definitions of each are outlined below.

- Diversity refers to demographic differences of a group – often at team or organisational level. Often, diversity references protected characteristics in UK law: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- Equality means equal rights and opportunities are afforded to all. The 2010 Equality Act in the UK protects those with protected characteristics from direct and indirect discrimination in the workplace.
- Equity recognises that treating everyone equally has shortcomings, when the playing field is not level. An equity approach emphasises that everyone should not be treated the same, but according to their own needs.
- Inclusion is often defined as the extent to which everyone at work, regardless of their background, identity or circumstance, feels valued, accepted and supported to succeed at work.

The above definitions translate into how we can uphold equality and avoid discrimination in our recruitment practices and ensure equity and inclusion during the recruitment process and beyond.

Upholding equality and avoiding discrimination

The social care workforce is made up of people working in social work, social care and early learning and childcare. With the social care workforce lacking equal representation in gender, race, disability and other protected characteristics, we recognise the need to improve diversity. Greater workforce diversity brings significant benefits, with people from different backgrounds and cultures enriching the quality of care and giving people more choice and diversity as to who provides their care and support. Fair opportunity is also a crucial component of fair work and integrating fair work principles – effective voice, opportunity, security, fulfilment and respect – into your recruitment can bring wider benefits to individuals, your organisation and the whole sector. To promote fair work, a [fair work tool](#) has been produced by statutory agencies, which you might find useful. Widening the profile of the workforce will also help address the ongoing shortage of staff across the sector.

The Equality Act 2010 protects people with the following protected characteristics from discrimination: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. It makes it unlawful for UK employers to discriminate when recruiting staff and forbids employers from asking specific questions summarised below when recruiting.

You must not ask candidates about protected characteristics or whether they:

- are married, single or in a civil partnership
- have children or plan to have children.

You must not ask candidates about their health or disability, unless:

- there are necessary requirements of the job that cannot be met with reasonable adjustments
- you are finding out if someone needs help to take part in a selection test or interview
- you are using positive action to recruit a disabled person (see below).

You can ask someone their date of birth, but only on a separate equality monitoring form. You should not let the person selecting or interviewing candidates see this form.

You must not use membership of a trade union as a factor in deciding whether to employ someone.

This includes:

- not employing someone because they are a member of a trade union
- insisting someone joins a trade union before you will employ them.

You can choose a candidate who has a protected characteristic over one who does not if they are both suitable for the job and you think that people with that characteristic:

- are underrepresented in social care
- suffer a disadvantage connected to that characteristic (for example people from a certain ethnic group are not often given jobs in your sector).

You can only do this if you are trying to address the under-representation or disadvantage for that particular characteristic. You must make decisions on a case-by-case basis and not because of a certain policy. You cannot choose a candidate who is not as suitable for the role just because they have a protected characteristic.

Direct discrimination is when an applicant is treated less favourably compared to another job applicant because of a protected characteristic. Indirect discrimination is where a policy or requirement that applies to everyone has a more negative impact on applicants with a protected characteristic, unless it is objectively justified.

Although not required under the Equality Act 2010, employers are recommended to record and track information regarding equalities and the protected characteristics of applicants and employees. This allows you to monitor progress in increasing the diversity of your employees. When collecting personal information (e.g. ethnicity, gender, faith, sexuality) about job applicants or staff, you must protect their data and comply with the Data Protection Act 2018 and the UK GDPR (General Data Protection Regulation). You must not discriminate against a candidate based on their personal information. ACAS (the Advisory, Conciliation and Arbitration Service) has a [template](#) for an equality and diversity monitoring form available.

The Scottish Human Rights Commission (SHRC) is part of the UK's Equality and Human Rights Commission (EHRC) and both organisations provide helpful information and advice for employers. With employment law being a reserved rather than a devolved responsibility, EHRC publications

cover employment law and their guides for employers on the Equality Act 2010 are useful reference material. The EHRC's guidance ['What Equality Law Means for You as an Employer: When You Recruit Someone to Work For You'](#) is particularly relevant for recruitment.

If there is any doubt as to whether adopted practices and strategies do comply with equal opportunities and/or human rights legislation, consider contacting the SHRC for advice or seek independent legal advice.

There are a range of voluntary organisations that support the rights of particular disadvantaged groups. For example, Stonewall provides advice on promoting lesbian, gay, bisexual and transgender rights.

Promoting diversity and values-based recruitment

In order to increase workforce diversity, we need to not only remove barriers by reducing discrimination and unconscious bias, but also take more proactive steps to reach out and attract a wider range of applicants. These proactive steps are sometimes referred to as positive action and can include:

- targeted advertising
- anonymising applications
- guaranteeing interviews
- making interview panels more representative of groups you are trying to attract
- adapting assessment activities to focus on attributes needed rather than traditional assessment tasks, such as engaging with people rather than undertaking written exercises.

In order to make your recruitment as accessible as possible and attract a wide range of applicants, employers should ensure that there are inclusive communication tools and language in recruitment materials and activities. The SSSC's careers website www.careersincare.scot provides accessible information and real-life stories encouraging people to consider a career in our sector. The SSSC's ['Right values, right people: recruitment toolkit'](#) also gives relevant advice for employers to promote equality and diversity when taking on new staff. The attitudes, values and capacity for self-awareness of an applicant can be as important as their previous experience in selecting the right person for a role.

Skills Development Scotland publishes resources promoting workforce diversity in social care, such as their [2019 report](#) 'Achieving Diversity in the Scottish Early Learning and Childcare Workplace'.

Employers may also find the [Scottish Credit and Qualifications Framework \(SCQF\) Partnership](#) a helpful source of advice. Qualifications in Scotland have changed a great deal and applicants may have a variety of qualifications or skills and experience which may be beneficial. The SCQF Partnership can help you understand qualifications in Scotland and beyond, identify comparable skills and experience, and provide a range of free advice, resources and workshops which can help you set job descriptions at an appropriate level, use SCQF levels to write person specifications, identify and better understand employee training needs and source suitable training. They also run a recognition scheme, [SCQF Inclusive Recruiter](#), for employers who use SCQF levels in their recruitment instead of

specific qualifications. This can significantly widen your pool of applicants, who may have a variety of qualifications or skills and experience at the required level, which might previously have been overlooked, ensuring you get the widest range of suitable candidates.

The voluntary organisation Community Renewal works with specific disadvantaged local communities to increase employability, so you may want to contact them if they are working in the same area as your service.

Values-based recruitment is a method of recruitment that helps ensure that the applicant's values and behaviours are aligned to those of the organisation they are applying to join. This method is complementary to the more traditional recruitment process that assesses aptitude and skills and further details are available in the SSSC's ['Right values, right people: recruitment toolkit'](#). Incorporating a values-based approach in recruitment practices should be considered best practice in roles supporting children and vulnerable adults.

Health and disability

An employer must ask whether an applicant needs any reasonable adjustments (sometimes referred to as access requirements) for any part of the recruitment process.

Further, if an applicant has indicated a disability on their application form, or the employer becomes aware of it, or the applicant asks for reasonable adjustments to be made, the employer must consider making adjustments to assist the applicant to apply for the post advertised and attend for interview or assessment centre if selected.

In many cases, reasonable adjustments are relatively simple for an employer to make. Examples of reasonable adjustments may involve:

- an applicant with a hearing impairment needing to clearly see the interviewer so they can lip read
- an applicant with limited mobility needing to know the accessible routes to the interview room in the employer's building
- an applicant with dyslexia needing some additional reading time to familiarise themselves with materials used in an assessment centre.

The EHRC's guidance states:

"Except in very restricted circumstances or for very restricted purposes, you are not allowed to ask any job applicant about their health or any disability until the person has been:

- offered a job either outright or on a conditional basis, or
- included in a pool of successful candidates to be offered a job when a position becomes available (for example, if an employer is opening a new workplace or expects to have multiple vacancies for the same role but doesn't want to recruit separately for each one).

This includes asking such a question as part of the application process or during an interview. It also includes sending them a questionnaire about their health for them to fill in before you have offered

them a job. Questions relating to previous sickness absence count as questions that relate to health or disability.

No-one else can ask these questions on your behalf either. So you cannot refer an applicant to an occupational health practitioner or ask an applicant to fill in a questionnaire provided by an occupational health practitioner before the offer of a job is made (or before inclusion in a pool of successful applicants) except in very limited circumstances, which are explained next.

The point of stopping employers asking questions about health or disability is to make sure that all job applicants are looked at properly to see if they can do the job in question, and not ruled out just because of issues related to or arising from their health or disability, such as sickness absence, which may well say nothing about whether they can do the job now.

You can ask questions once you have made a job offer or included someone in a group of successful candidates. At that stage, you could make sure that someone's health or disability would not prevent them from doing the job. But you must consider whether there are reasonable adjustments that would enable them to do the job."

When a disabled person and a non-disabled person both meet the job requirements, you can treat the disabled person more favourably.

Supports for candidates, current employees and employers

The [Disability Confident scheme](#) helps employers to "think differently about disability and take action to improve how they recruit, retain and develop disabled people".

Applicants and current employees may be able to access additional support through the Department of Work and Pensions (DWP) [Access to Work](#) scheme. An Access to Work grant can pay for things like British Sign Language interpreters, taxi fares and job coaches. A service is available for those who require [communication support for job interviews](#).

The DWP provide a [Health Adjustment Passport](#) which can be used by candidates to help them identify support they may need, apply for Access to Work and talk to employers about reasonable adjustments and other in-work support. As an employer you may like to link to the Passport in recruitment adverts or webpages.

Employment support organisations and Local Employability Partnerships can support people with disabilities and significant health conditions to start and develop in their career. This is explored further in the next section.

Employability and work placement schemes

'Employability' refers to a person's capability for gaining and maintaining employment and 'employability services' (or 'employment support services') in Scotland help people overcome barriers to employment. Any one of us may experience barriers to work at any point in our lives. Support

can be short or long term, and it can be accessed from Job Centres, Local Authorities, independent employment support organisations (such as those delivering Fair Start Scotland), colleges, independent training providers and charities.

There is no one-size-fits-all approach. Instead, support is most effective when it is shaped around a person's unique circumstances and goals. A 'key worker' or 'work coach' can help participants with specific issues like access to childcare, travel costs, managing finances and more. They can also arrange work related learning opportunities to help participants experience different sectors and choose the type of career they are most suited to.

Employability services provide important support which can help you, as an employer, to recruit from a diverse range of people (including people who may otherwise feel that a career in social services is not accessible to them).

Employment support services often work in partnership with employers in their area to arrange work related learning opportunities. By taking part in this activity as an employer you can engage with people who may later wish to apply for roles with your organisation. Activities could include:

- nominating an employee (or careers ambassador) to attend a group skills session to share their career story with employability participants, helping them understand the different entry routes and the values employers look for
- agreeing to provide a work experience placement or shadowing opportunity
- offering a mock or real interview to an employability participant who has completed a learning programme
- nominating your organisation to take part in a sector-based work academy.

A key benefit of employment support is that participants can develop their knowledge and experience the role before they make an application for employment. In some cases, this recruitment approach may require additional investment from the employer before interview and during the early career stages (as some barriers to work for an individual may remain). Employment support services will often continue to work with the individual when required and can also provide guidance to you as an employer. You may find that despite the additional investment that is sometimes required early on, new employees who have been recruited this way are likely to stay with you.

Contacting employment support services

There are a number of ways to contact employment support services to initiate partnership work and provide more recruitment opportunities for participants.

- Contact your [Local Employability Partnership](#) to find out about programmes, opportunities or employer incentives available in your local authority.
- Go to [Fair Start Scotland's information page for employers](#).
- Research national organisations which tailor their support for particular groups. For example, The [Princes Trust](#) offers online and in-person Health and Social Care programmes for young people up to age 30, while [Enable Works](#) offers a range of employment support services for people with learning disabilities or other support needs.

- Contact your local [Job Centre Plus](#) to ask about their sector-based work academy programme and other national (UK) employability schemes.

Visit the [Employability in Scotland website](#) for the full range of supports available.

Further considerations

If offering a work experience placement or shadowing opportunity, consider whether a criminal record check from Disclosure Scotland will be necessary. You can describe the responsibilities that a participant will have while in your service, and the employment support worker can help you to explore this with the participant and Disclosure Scotland to see what level of disclosure is required. If it is required, ask the employability service if they can arrange for a participant's Standard Disclosure or Protection of Vulnerable Groups (PVG) Scheme membership to be in place before the placement begins. Many employment support services fund Standard Disclosures and PVG Scheme applications.

Funding may be available to support and enhance the recruitment and in-work development of people who may experience disadvantage or additional barriers. For example, enhanced contribution rates are offered by Skills Development Scotland to help improve the experiences of disabled Modern Apprentices and Modern Apprentices with care experience (up to age 29).

Candidates with criminal convictions

Having criminal convictions can mean people experience stigma and unfairly reduced life chances. Some groups in society are more likely because of their background to have criminal convictions, including people with care experience and other people who have suffered trauma. 'Scotland Works for You' aims to improve the employment opportunities for those with convictions and has produced a helpful [guide](#), with the following introduction:

"Around a third of men in the United Kingdom have a criminal record, and around one in 10 women. Most are for minor crimes and result in non-custodial sentences.

There is often a stigma attached to having a criminal record. This means those who are punished formally by the courts and justice system can also be informally punished, because it reduces their future opportunities in life. People with convictions can be excluded from society as a result.

This exclusion can lead to an increased risk of reoffending for some people, but both can be reduced through employment, volunteering and education opportunities. These can help promote a sense that they are part of society and have an investment in it."

People can sometimes assume that they will not get a job in social care if they have any conviction, but this is not the case. Convictions will not necessarily prevent someone from working in a care service, or becoming a member of the PVG Scheme. It will depend on the nature of the conviction and the context. For some social care roles, having lived experience of the justice system can be of value to both people who experience services and to services as a whole. This is because the person with

lived experience can offer meaningful knowledge and understanding of the justice system, including what can lead people into the system and in turn what can support someone out of the system.

Release Scotland is an organisation started by employers who want to make a difference and help people with convictions turn their lives around. It is a network of Scotland's employers, of all shapes and sizes, including members of the private, public and third sectors and supports the Ban the Box campaign, established by Business in the Community. [Release Scotland](#) provides a range of resources and tools to answer questions and support employers to recruit staff with previous convictions.

See below for further information on carrying out PVG and disclosure checks.

Support for recruiting young people

There are a range of supports to promote the employment of young people, which reflects rights-based recruitment and the principles of the UNCRC and The Promise. Young people make a valuable contribution to the sector and in 2019 and 2020, young people under 25 years were the largest group to start working with a new child or adult care service employer.

[My World of Work](#) is the national careers platform, hosted by [Skills Development Scotland](#) and used by careers advisers across all schools and high street careers centres. As an employer you may find it helpful to research relevant funding and training courses offered on the site for young people. As described in the '[Employability and work placement schemes](#)' section you could consider getting involved by offering insight sessions or work placements.

[Apprenticeships.scot](#) is the national apprenticeship website, also hosted by [Skills Development Scotland](#). You can use this platform to advertise modern apprenticeship vacancies within your organisation. Modern apprenticeships are available for people of all ages, and often used to upskill current employees, however they hold particular value to young people looking for a supportive entry route which will include access to a workplace mentor (provided by the employer), an SVQ qualification and additional core skills. If you need to find an approved learning provider to work with you can use the tool on [apprenticeships.scot](#).

Care experienced people

Care experienced people can face particular barriers in relation to being recruited and progressing in the workplace. Under the Children and Young Persons (Scotland) Act 2014, many statutory bodies took on legal responsibilities as Corporate Parents to improve the support provided to care experienced young people as young adults. Across wider public society, people are being asked to help improve the life chances of care experienced young people and as an employer you are encouraged to take positive action to recruit a young person with a care background. The Promise and Who Cares Scotland provide information and advice on a national level and many local authorities support care experienced young people to access employment opportunities.

It is recognised that people who have lived experience of the care sector (through for example being cared for away from home during childhood for any length of time or living with family who

have required additional local authority support) may have experienced disruption to education. Furthermore, evidence suggests people may continue to face lasting impacts in education, training, and work as a result of these early experiences. Both [IRISS](#) and [The FrameWork Institute](#) have produced helpful information about the barriers that care experienced people face.

Career support available for care experienced young people includes:

- enhanced financial contributions to learning providers from [Skills Development Scotland](#) for modern apprentices with care experience, up to age 29
- a bursary from [Student Awards Agency Scotland](#) for full time students with care experience
- access to enhanced employment support, for example with [Fair Start Scotland](#).

Care experienced young people are often disadvantaged economically and this can be a barrier to employment. Measures that employers can take to mitigate the effects of poverty include helping with the costs and resources needed for application, such as IT support, travel and subsistence expenses to attend an interview. Some employers have started to ask for voluntary disclosure of care experience on their application forms, which means they can offer additional help with the application and interview process.

Care experienced young people can benefit from being offered feedback on what they did well during the recruitment process and how this could be strengthened for further applications (see 'Interview or assessment records' section below).

Volunteers

Although this guidance is to support the recruitment of paid staff, including compliance with legal duties as an employer, much is also relevant for recruiting volunteers. Volunteers make an important and valuable contribution to social care and are essential for some services, with volunteers working alongside paid staff. Responsibility for supervising and supporting volunteers is a significant role for many paid staff in particular service types. For more information and guidance on recruiting and supporting volunteers, including details of your local volunteer centre, contact [Volunteer Scotland](#).

Involving people experiencing care in recruitment and selection decisions

Standard 4.9 of the Scottish Government's Health and Social Care Standards states "I can take part in recruiting and training people if possible" and in addition part of Standard 3.11 states "If possible, I can have a say on who provides my care and support."

The Care Inspectorate's quality indicator framework for support services also includes the following:

"People using the service have opportunities and the necessary support to be involved in the process in a meaningful way that takes their views into account, including in recruitment decisions.

If the person using the service agrees, family members have the opportunity to be involved in making recruitment decisions in a meaningful way.

During the induction period, feedback is sought from people using the service and family members where appropriate, to help evaluate staff members' values, communication and development needs."

Although involving people in recruitment is a developing area of practice, it has become commonplace for social care services to involve people when taking on new staff, particularly as part of the interview process.

Various methods include:

- visits by applicants to the service
- a group of people who experience the service meeting applicants individually, often with a set of questions agreed in advance
- a group of people who experience services meeting a group of applicants, often to undertake a group exercise
- asking people who experience the service to help develop the person specification for the post without being directly involved in the interview process or
- including people who experience the service as a member of a panel interview.

People experiencing a service can be involved in recruitment at different levels, including making decisions regarding the employment of a candidate to provide their direct care and support. Many organisations also support a group or committee of people experiencing a service or a group drawn from multiple services. The views of people experiencing services can also be gained by someone specifically allocated this role, who is able to draw on lived experiences of care. Some organisations also have lived user representation within their governance structures. Similarly, many services invite family members to participate in individual recruitment decisions or involve a group of relatives in the recruitment process.

Involving people in recruitment should be considered by all services, including early learning and childcare.

You should think about the following issues:

- have you provided adequate training and support for people who experience services to undertake the task you have asked them to do?
- are people clear about their role within the whole process and have you helped to manage their expectations?
- have you made clear whether people experiencing the service will contribute directly to making the recruitment decision?
- have you thought about how you will manage any personal biases in relation to age, sex discrimination and other equalities issues?

Some employers are adopting a co-design approach to the whole recruitment process, including co-creating adverts, all recruitment materials, design of the interview/selection arrangements and questions asked at interview.

Developing your recruitment policy

It is good practice that employers have a recruitment policy, which should follow this guidance and be fully compliant with all relevant legislation.

An explicit written recruitment policy can help show your organisation's commitment to safeguarding and promoting the rights and wellbeing of people both experiencing and providing care and support. Your policy should include a statement on how the way that you recruit staff reflects the values of your organisation. For example, the policy could include a statement on how your recruitment is promoting equality and diversity within your workforce. You could also add positive statements encouraging applications from people with protected characteristics and criminal convictions. There are also employer accreditation schemes, such as the LGBT charter and Disability Confident Committed, which provide external assurance and logos to display.

Key statements from your policy may be included in:

- publicity materials
- recruitment websites
- advertisements
- applicant information packs
- person specifications
- job descriptions
- competency frameworks
- induction training.

Your policy should refer to the different stages of the recruitment process and how your organisation approaches these. For example:

- use of assessment centres
- composition of interview panels
- values-based recruitment
- retention of applicant information
- how offers of employment will be made
- conditions of employment such as professional registration or probationary periods
- provision of references.

Your policy should also invite feedback and include a process for dealing with recruitment complaints.

Trauma informed recruitment

All stages of recruitment should, where possible, be trauma informed. Many of the areas covered in this guidance will help to ensure your recruitment processes are trauma informed and you therefore may wish to highlight this in your recruitment policy.

Being 'trauma informed' means being able to recognise when someone may be affected by trauma, adjusting how we work to take this into account, and responding in a way that supports recovery, does no harm and recognises and supports people's resilience.

Central to this is the importance of relationships. The people are a huge part of what makes, shapes, drives and develops an organisation and therefore all stages of recruitment and the policies and processes that support recruitment are key and should be developed and undertaken in a thoughtful and meaningful way. A relational approach to recruitment should be taken at each step of the way, from the planning stages right through to induction. If one of the steps does not align with the organisational values, it can easily undo the achievements of other steps.

When undertaken through a trauma informed lens, the recruitment, interview, and induction stages acknowledge that many people coming into the workplace have experienced their own trauma and adversity; it also respects and expects that there is a multi-layered impact on staff working in a trauma-focused and highly stressful environment and context. This is in addition to the knowledge that most people find interviews a stressful and high pressure situation that can cause anxieties to resurface and can evoke feelings around being judged, being stupid and not being good enough. Moreover, interviews by their very nature involve a power dynamic and a position of privilege. All of this – particularly for those who have experienced trauma and adversity – can trigger feelings of fear and can place people into fight/flight/freeze mode (i.e. survival mode). We know that fear and going into survival mode can restrict and constrict thinking and exploration, so in order to get the best out of people it is in our - and their - best interest to support people at every stage to feel safe, listened to, valued, engaged and empowered. All stages of the recruitment process should, where possible, be collaborative, communicative, transparent, and reciprocal.

You will find helpful information on trauma informed practice in NHS Education for Scotland's National Trauma Training resources: <https://transformingpsychologicaltrauma.scot/>.

Application forms and CVs

You should have a focused but comprehensive application form, in a written and/or online format, that formally requires applicants to provide information in support of their application. The use of application forms is recommended as it allows an employer to obtain a common set of core data from all applicants.

However, very long or poorly-designed application forms can deter people from applying, and may even present barriers to candidates who have less experience applying for roles in Scottish care services. This can include young people, social care students, people using employment support services, international candidates and refugees and asylum seekers.

Some organisations accept CVs instead of application forms which is acceptable under this guidance providing the right information is gathered at other appropriate points in the recruitment process. You can also accept a CV initially, and then require candidates moving forward in the recruitment process to complete your organisation's application form (for example upon the offer of an interview, or after it has taken place). By accepting CVs at least for the early stages in the process you could widen access to roles in your organisation and attract interest from more candidates.

The [CIPD factsheet](#) on the use of application forms is a helpful guide for considering this issue.

You should seek the following information in your application form and if you are accepting CVs you should make sure the same information is gathered during the recruitment process and recorded appropriately.

- A full employment history in chronological order including part time and voluntary employment, including start/end dates, reason for ceasing and explanations for periods not in employment or education/training; for older applicants with a very long employment history, some flexibility is acceptable regarding their early career.
- A statement of academic and/or vocational qualifications relevant to the position.
- Any involvement in disciplinary or grievance procedures and any 'live' formal warnings.
- Details of current or former registration with the SSSC or any other relevant professional regulator, declaration of any finding by a regulatory body and any conditions that apply to current registration.
- Information on PVG Scheme membership.
- A declaration of any family or close relationship to existing employees and relatives of people using a service provided by your organisation.
- Details of referees (full details of what is required at contained within the References section below).
- A personal statement or other recorded evidence of the personal qualities, values and experience the person believes are relevant to their suitability for the post and how they meet the person specification.

Although full identifying details are clearly needed, some organisations are no longer requiring these in the application form and are collecting these details separately, which can help avoid discrimination and unconscious bias.

Be clear that as a prospective employer you may contact any former employer in addition to the referees nominated by the applicant.

Applicants should be informed that if employed, failure to disclose important information at the application stage may lead to dismissal and referral to the relevant regulator if discovered at a later date.

For 'regulated work' roles involving responsibility for caring or supporting children or vulnerable adults, or positions of trust within organisations providing care and support, PVG Scheme membership is mandatory. If you are advertising a post involving 'regulated' work, which involves direct responsibility for children and protected adults as defined by Disclosure Scotland, then a PVG will be needed. A standard disclosure will be needed for some non-regulated work posts that involve contact with people experiencing care. For example, a standard disclosure would be expected for an administrative role within a care service, but not an administrative role in a central office that does not involve contact with people experiencing care. For PVG and standard disclosure checks, the law requires the following to be disclosed:

- any unspent convictions, and
- any relevant spent convictions.

Disclosure Scotland provides the following guidance on spent and unspent convictions:

<https://www.mygov.scot/convictions-higher-disclosures>

Employers and prospective applicants may also find the following Disclosure Scotland podcast on careers in social services helpful:

<https://podcast.iriss.org.uk/careers-in-social-services-the-role-of-disclosure-scotlandh>

The SSSC also has guidance for applicants on what convictions they need to declare to you as employer and to the SSSC:

<https://www.sssc.uk.com/knowledgebase/article/KA-01093/en-us>

Make clear on the application form that Disclosure Scotland/PVG Scheme membership checks or regulatory body registration checks will be carried out.

In addition to the required level of disclosure check with Disclosure Scotland, you can ask applicants to self-declare convictions to you as part of the recruitment process. If you do this, however, you should inform applicants:

- what they legally need to disclose
- where they can get advice about disclosing.

Most organisations who support people with convictions recommend using a 'letter of disclosure'. In this letter the applicant explains:

- why they want to disclose their convictions
- the nature of your convictions and the sentences they got
- the circumstances that led to the [convictions](#)
- changes they've made in their life since the conviction, like education
- why they should be considered for the position.

Disclosure Scotland provides guidance for employers and applicants regarding self-declaration: [Help finding a job with a conviction - mygov.scot](#).

Ensure application forms are not discriminatory. For example, to require a form to be filled out 'in your own handwriting', where written English is not relevant to the post, may discriminate against applicants whose first language is not English. It could also discriminate against applicants with disabilities that affect writing ability. This may be avoided by making an electronic version of the form available. Many roles do not require a high level of competency with regard to written English and therefore you should consider applicants being able to use other formats to evidence their relevant personal qualities and experience. The EHRC's 'What Equality Law Means for You as an Employer: When You Recruit Someone to Work For You' provides detailed guidance for avoiding discrimination and potential claims against you at an Employment Tribunal.

A tool such as a personal interview is an effective way of looking at skill, suitability and fitness. When completing an application form, applicants should be made aware that:

- this kind of interview is a key part of the recruitment process and that by submitting their application form, they understand this
- if they find this kind of probing difficult, they may take the opportunity to withdraw.

ACAS provides a template for a generic job application form, which may be helpful.

Retaining recruitment information

Only retain information obtained through a recruitment exercise for as long as there is a clear business need for it. You have a legal responsibility to protect the personal data about job applicants or staff and comply with the [Data Protection Act 2018](#) and UK GDPR. The [Information Commissioner's Office \(ICO\)](#) provides advice on complying with UK GDPR. Although the [ICO's Employment Practices Code](#) from 2011 has not been updated since the introduction of the Data Protection Act 2018, this remains a helpful resource for employers and provides advice on the different stages of the recruitment process set out below. Information has not been updated since the Data Protection Act 2018 became law.

You may choose to retain recruitment records for a longer period of time, six months to one year, in case of a recruitment complaint, discrimination challenge, or to assist in the assessment of ways to improve the recruitment process for future vacancies.

You may wish to keep more information for longer about successful candidates. The Care Inspectorate expects employers to retain full records for people who are appointed.

Settlement or confidentiality agreements

Settlement or confidentiality agreements are sometimes referred to as confidentiality clauses, non-disclosure agreements or gagging clauses. They involve an agreement between an employer and employee at the termination of a contract that certain types of information will not be discussed or passed on. Settlement or confidentiality agreements can be used reasonably to protect confidential information or in cases where a worker wants to make sure the details of the discrimination to which they have been subjected will not be discussed. They can also be used unreasonably and the EHRC has produced helpful [guidance](#) on their appropriate use.

Settlement agreements however do not apply to an employer's duty to make referrals and pass information to Disclosure Scotland or to professional regulators. If a settlement agreement is used when terminating employment, it must be made clear that any confidentiality clause does not apply to information being passed to Disclosure Scotland or the individual's regulatory body. Similarly, settlement agreements should not prevent employers from fulfilling their responsibility under the SSSC's [Codes of Practice for Employers of Social Service Workers](#) to "Ask for and provide accurate and appropriate references to share information relating to a person's suitability to work in social services".

Recruitment and employment agencies

Care providers can use recruitment and employment agencies for a range of purposes. For example, providers can contract a recruitment agency to assist with all or part of their process of recruiting their own employees. Recruitment agencies are sometimes used to recruit to senior positions and are increasingly being used to filter applications for other roles. If you decide to employ a recruitment agency for this purpose, then applicants must be informed that they are applying to a recruitment agency rather than direct to you as the employer. It is important that there is transparency with candidates and that you are clear regarding the role of the agency in the recruitment process and decision-making regarding appointments being made.

Providers contracting employment agencies to supply staff cover is the most common use of agencies in the social services sector. Nurse agencies are registered and regulated in their own right with the Care Inspectorate, are regularly inspected and expected to adhere to the [SSSC's Code of Practice for Social Service Employers](#) and the NMC's expectations for employers. Social care employment agencies on the other hand are not registered with the Care Inspectorate, but their staff are required to be individually registered with the SSSC (or another equivalent professional regulator) and comply with the SSSC's Code of Practice for Social Service Workers.

An employment agency supplying staff cover should adopt the principles of safer recruitment as outlined in this document. It is their responsibility as the employer to carry out recruitment checks to ensure that individuals are suitable for the roles they are covering. Responsibility for ensuring that people who experience care are safe and protected lies with the care service, which should seek formal assurances from any employment agency that individuals have been recruited robustly. You should include expectations of safer recruitment practices into your contracts with any agency providing staff.

All recruitment and employment agencies must comply with the Employment Agencies Act 1973 and the [Conduct of Employment Agencies and Employment Business Regulations 2003](#). This includes being required to provide their agency staff with a contract and to not charge individuals for finding them work. The Regulations also stipulate that agency staff should be paid even if as a provider you are unhappy with their work. Recruitment and employment agencies are also required to comply with the Agency Workers Regulations 2010 and the Equality Act 2010. Compliance is regulated by the Employment Agencies Standards Inspectorate. In addition, there are several membership organisations for agencies with their own codes of practice, with the largest being the Recruitment and Employment Confederation and the Association of Professional Staffing Companies.

A checklist which the agency is required to complete for each member of staff deployed to your service may assist to offer you some extra assurance that the agency is fulfilling its duties to you. Any observed or alleged fitness to practise issues must be reported by the service provider to the employment agency and to the employee's relevant registering body.

Digitally assisted recruitment

While nothing replicates the value of meeting candidates in person in order to make the right selection, technology can enhance parts of the recruitment process with regard to effectiveness as well as efficiency. Vacancies were being routinely advertised online before the pandemic, which had significantly increased reach and accessibility. In addition to reducing costs, harnessing the power of the internet to find and match employers and employees is benefitting all parties. The pandemic has meant many organisations adopting virtual methods for more aspects of the recruitment process through necessity, including screening and interviews, which has further raised awareness of the benefits of using technology.

Having attracted candidates, the use of online tests and written exercises can significantly enhance the efficiency and effectiveness of an initial screening process from which candidates are then shortlisted for interview. Just as social media is allowing the advertising of vacancies to reach a wider and larger audience, so using online applications and screening processes means that people can be recruited from a greater pool of candidates. Virtual screening can help to increase diversity, as not having to travel can mean more equal access for job seekers from remote and marginalised communities. Unconscious bias in recruitment can also be reduced by limiting the visual and other cultural triggers that can sometimes lead to people forming false first impressions.

Interviews via virtual platforms were being used before the pandemic, but employers having to move interviews online has not been as negative for employers as many expected and some will choose to retain elements of this. For example, the traditional formal interview format with an employer panel can transfer well to a virtual setting and allow more time for the more informal but increasingly important aspect of candidates meeting people experiencing and working in services as part of the selection process.

Identity and background checks can also be carried out online and the use of specialist digital platforms to manage this process is increasing. Carrying out background checks remotely affords greater efficiency and for data to be shared with others, including regulators. If you are deploying a digital platform or contracting a specialist agency to manage this on your behalf, you should ensure that it complies with legal and security requirements, including necessary permissions obtained for the use of personal data.

Stages of recruitment process

Stage 1: Defining the role

The development of accurate job descriptions and person specifications is important for finding someone suitable for the role. It allows you to clearly state what the role entails and what you are looking for and it allows candidates to assess their own suitability for the role prior to applying.

Specific competencies for the post are routinely identified through a process of job analysis. The competencies will help provide an accurate job description and person specification. In developing competencies, the SSSC's Codes of Practice, the Standards and the Care Inspectorate's quality frameworks are key resources you can draw upon. At this stage, you should also consider any qualification requirements for the role set by the SSSC or other workforce regulators such as the Nursing and Midwifery Council (NMC), Health and Care Professions Council (HCPC) or the General Teaching Council for Scotland (GTCS). You may also find the SSSC's Common Core Skills and National Occupational Standards (NOS) helpful and the [NOS Navigator](#) provides a practical tool that links skills and qualifications with the different roles and settings on the SSSC register.

You should ensure that the job description and person specification are values-based and fully reflect the focus of the Standards on upholding people's rights to dignity, respect, compassion, participation and wellbeing. The role should be defined in terms of the activities, behaviours and attitudes needed to achieve positive outcomes for people experiencing care rather than relying on the traditional approach of merely listing the tasks required of the role.

Job description

Job descriptions should clearly state the main duties and responsibilities of the post, including the individual's responsibility for promoting and safeguarding the rights and wellbeing of people they will be caring for or supporting.

Person specification

A person specification should set out a profile for the post and of the ideal person to fill it. It should clearly state what are essential and what are desirable qualifications, experience and skills.

It should include:

- the qualifications, knowledge and experience, registration requirements and any other requirements needed to perform the role
- the competences and qualities that the successful applicant should be able to demonstrate or show the potential to develop.

Be clear what is essential or required for the role and what is desirable or preferable. Think about development opportunities for applicants, registration and qualification requirements, and whether any of the criteria may be directly or indirectly discriminatory. When specifying the essential and

desirable competencies and qualities, you should take into account the focus of the Standards on rights, compassion and wellbeing. Although the interview will allow a fuller exploration, the person specification can cover issues such as:

- motivation to work with people experiencing care
- ability to form and maintain appropriate relationships including personal boundaries with people you care for and support
- ability to assist people to claim and uphold their rights
- emotional resilience in working with challenging behaviours
- attitudes to use of authority and maintaining a good care environment.

It is good practice to explain how these requirements will be tested and assessed during the selection process.

Regarding qualifications, be clear about the qualifications that the SSSC expects for the role and your plans to support a successful applicant not holding this qualification to meet the standard condition imposed by the SSSC to obtain the qualification within a 5 year period from the date of registration.

Given that the skills, knowledge and experience of the manager and leader of a service directly impacts on the quality of care for people experiencing the service, recruitment to senior roles should be given particular attention. This is reflected by the legislation making specific requirements regarding the fitness of managers of registered care services. As the regulated service provider and employer, you have the primary responsibility for ensuring that you do not employ a person who is unfit to act as a manager under the 2011 Regulations. The Care Inspectorate will monitor this as part of the scrutiny of your service.

When producing person specifications and job descriptions for recruiting managers, supervisors and staff into senior positions, you need to be aware of the particular SSSC expectations for these roles. For example, when appointing someone to manage a registered service, employers should ensure that applicants hold a minimum SCQF level 7 practice qualification, which is expected by the Care Inspectorate. If the applicant does not hold an SCQF level 9 management qualification, the SSSC will impose a condition for this to be obtained within a 5 year period.

When recruiting a manager, you should ensure that they have sufficient knowledge, skills and experience with regard to both practice and management. This includes considering the applicant's past experience and the relevance of the service settings they previously managed or worked in. If the applicant has previously managed a regulated care service, it is worth checking its regulatory history while bearing in mind that the performance of a service does not always reflect the competency of its manager. In addition to qualifications, it is important to take into account previous training and experience, particularly if it is their first management post.

If you are recruiting a manager registered with the NMC or another professional regulator rather than the SSSC, a condition to obtain a management qualification will not be imposed on their professional registration. For managers not registered with the SSSC, it is important that you consider what management and leadership qualifications, or training are needed for the role and that you access any support and funding opportunities available for this purpose.

Stage 2: Advertising and shortlisting

Advertising

Although there are no legal requirements about advertising, you should ensure that how you advertise does not indirectly discriminate against anyone with a protected characteristic. For example, choosing to only advertise by word of mouth or to a very specific community, could mean that people are excluded and do not have an equal opportunity to apply.

You must not state or imply in a job advert that you will discriminate against anyone and only use phrases like 'recent graduate' or 'highly experienced' when these are actual requirements of the job. Otherwise, you could discriminate against younger or older people, people from other countries, and those who took a different route to learning and who might not have had the opportunity to gain qualifications.

When advertising, you must not state or imply that a job is unsuitable or that reasonable adjustment cannot be made for disabled people generally or a disabled person with a particular type of impairment.

You are allowed, however, to advertise a role only for disabled applicants or to advertise that that you are encouraging disabled people to apply for the role. Equality law allows you to treat a disabled person more favourably, which is intended to help overcome the barriers disabled people face when getting a job.

The advertisement should be concise and easily understood. If possible, include the following information or a link to where this detailed information can be found, such as from websites or in an application pack:

- the post title and main details of the post including pay, location and type of contract (for example, is it permanent or fixed term)
- any required qualification or professional registration and any support for learning provided
- whether PVG Scheme membership is required for the role
- what the next steps will include, such as an interview, written assessment, group exercise, assessment centre
- dates of interview, if known.

You should be clear about the nature of the work and how applicants should respond to the advertisement.

Think about different routes to recruitment to obtain a broader diversity of applications. For example, in addition to recruitment websites (S1, Indeed, etc), Job Centre Plus and mainstream media you could consider:

- local newspapers
- specialist publications and media outlets
- shopping centre

- open days
- local window advertising
- social media such as LinkedIn, Twitter, and Facebook
- organisations who help long term unemployed and other disadvantaged groups into work
- schools and higher education institutes
- school leaver programmes
- local representative bodies and networks
- national representative bodies and networks.

You may decide to invite potential applicants to contact you for an informal conversation to help them decide whether to apply. In order to provide all applicants with consistent information, many employers send applicants a recruitment pack, which includes:

- an application form and explanatory notes about completing the form
- job description and person specification
- terms and conditions of the post
- relevant information about the employer, the recruitment process and policies such as protecting people and equality and diversity.

Shortlisting

Depending on the number of applications, you may decide to carry out a shortlisting exercise in order to reduce the number of applicants going forward to the next stage of the recruitment process. You must carry this out consistently for all applications using the same person specification as criteria. As part of the recruitment process, you must ensure that the shortlisting exercise complies with equality law and the EHRC's guidance '[What Equality Law Means for You as an Employer: When You Recruit Someone to Work For You](#)' contains detailed advice on this.

You may wish to give weighted scores to the essential criteria based on their importance to the role. If possible, shortlisting should be undertaken by more than one person and by members of the interview panel. There are other actions that can be taken to reduce discrimination and unconscious bias, such as biographical details being removed from shortlisting panels.

Look for unexplained gaps in employment history, significant changes in career, incomplete applications, repeated job moves without obvious career progression and other discrepancies. These should be explored at interview if the applicant is short-listed.

Invitation to interview

Explain clearly in your letter or email what the interview or assessment process will involve, including:

- time, place and location (directions to the venue are helpful)
- details of the interview panel
- details of how the interview will be conducted
- what the applicant will need to bring with them to interview such as identification and evidence of qualifications
- that safer recruitment checks will be carried out if the applicant is successful.

At this stage, you must also ask applicants if they need any reasonable adjustments in order to participate equally in the interview. Keeping this information separate from the initial application form or another part of the decision making process helps ensure that the information is not used to discriminate and you can demonstrate this. You should be prepared to be flexible regarding the dates or times of interviews to avoid direct or indirect discrimination.

Stage 3: Assessing your applications and offering the role

Adopting a general approach which is based on strengths and assets rather than weaknesses and deficits, by considering if applicants have the relevant skills, qualities and experience for the role instead of any potential problems from their health or disability, will enhance effective recruitment and help avoid discrimination. Assessment should focus on the suitability of applicants, and their disposition to providing compassionate, dignified and respectful care and support to people, rather than just focussing on previous experience and competency in carrying out tasks.

Screening interview

Some employers use an initial individual screening interview with applicants to scrutinise the application form, identify any issues which require clarification, or gain additional information to establish reasons for breaks in employment or other matters which are not clear. From the applicant's perspective it is an opportunity to explain and expand on any omissions or errors in their application form.

If you do hold a screening interview, you should ensure that it adopts the same approach as the main interview and that it is equally compliant with equality law.

Main interview

When interviewing in person or online, the process should be structured and address the criteria from the job description and person specification. It is important that the same structure is used for all candidates and that the interview process does not unfairly discriminate in the way that it is carried out. This does not mean that all candidates have to be asked exactly the same questions, but the interview should cover the same criteria and the process should be the same.

Although it is possible for interviews to be conducted by a single person it is not recommended. It is better to have a minimum of two interviewers. Some organisations decide to have mixed gender interview panels.

Interviewers should have the necessary authority to make decisions about appointment and should be familiar with this guidance. It is particularly important that interviewers understand their responsibilities under equality legislation. For example, while making reasonable adjustments for equal participation in the interview is required, interviewers must not ask questions about someone's protected characteristics unless these are clearly relevant to the role. Before interviewing, panel members should be clear about the agreed assessment criteria in accordance with the person specification, if there are specific issues to be explored with individual candidates and who will lead on this. Often a scoring system for each candidate's performance against the criteria is used, with panel members scoring independently before discussing in order to promote objectivity and fairness. There should also be agreement on how the record of assessment will be taken.

Questions should be behavioural and, where possible, focus on what applicants have done, not just on what they might do. With past behaviour often being the best indicator of future behaviour, questions should explore the applicant's learning from previous experiences and areas for professional development. Questions can cover a range of areas, such as skills, experience, values and behaviours. Where appropriate for the post, interviewers should follow up applicants' responses to questions and probe critical areas such as attitudes to control, punishment, conflict, sexuality, management of sexualised behaviour, as well as the influence of their own experience (eg of being parented or of parenting) on their approach to providing care and support.

Using tests and other assessment processes

Some employers use tests or assessment centre exercises in addition to an interview. As with interviews, applicants must not be disadvantaged because of their protected characteristic or because of the timing or content of a test or assessment centre.

Tests can help assess the abilities of candidates regarding particular skills, such as written or numerical skills. Assessment centres offer the opportunity to simulate aspects of a role so that applicants can demonstrate their ability to respond effectively to them. Exercises can include written exercises, role play, group discussion, visits to a service, group and individual exercises, a presentation, an in-tray or planning exercise. Some organisations use questionnaires to explore issues of attachment and trauma.

The SSSC's '[Right values, right people: recruitment toolkit](#)' also gives relevant advice for employers to promote equality and diversity when taking on new staff.

Interview or assessment records

The scoring of applicants should be recorded and shared by interview panel members and considered alongside all available candidate information. This usually involves a combination of numerical scoring against indicators for each exercise or question in interview and discussion of the scoring along with any feedback from the screening interview, if carried out separately from the main interview, and the information available from the application form.

Apply scoring criteria to all applicants equally and without exception.

If the panel cannot agree on the most suitable applicant or want to explore further with the applicant their suitability for the post, you may want to consider undertaking a second interview with one or more of the applicants. It is recommended that at least one interview panel member from the original interview should be on the second interview panel. If relevant for the role you could consider asking the applicants to prepare a presentation or written piece in advance.

Decide in advance how a recruitment decision is fed back to individual applicants. It is good practice if employers adopt a coaching approach to help individuals understand what they did well in the interview and where they can further strengthen in their preparation for and engagement in future interviews.

Making an offer of employment

An offer of appointment to the successful applicant should be conditional upon:

- verification of the applicant's identity, if that could not be verified at interview stage
- verification of the right to work in the UK
- verification of professional registration and qualifications, if not verified at interview
- a PVG Scheme record check
- the receipt of satisfactory references.

You will need to include in your offer of employment:

- an outline of the key conditions of employment
- any requirement to have the correct visa and right to work in the country (or a requirement to continue to possess these if they are for a time limited period)
- any requirement for the applicant to declare any new charges/convictions
- any requirement relating to gaining and maintaining professional registration with any regulatory body.

Be clear about your and the employee's responsibilities about maintaining professional registration, meeting qualification and continuous professional learning (CPL) requirements or revalidation requirements.

Stage 4: Essential background checks

Given the number of different background checks required, many organisations find a tracking system helpful to manage this process. There are a range of online applications available to support this. In 2014, NHS Scotland's Partnership Information Service published a policy guidance on [Safer Pre and Post Employment Checks in NHS Scotland](#), which social care employers may find helpful. For example, the policy includes good practice guidance on checking the validity of documentation and a checklist for tracking background checks.

Identity and right to work checks

Before employing an applicant, an employer must check their right to work in the UK. Employers must be consistent in their checking and not only check those who they assume may not be eligible because of their name, race, accent or other personal characteristics. Employers can be fined up to £20,000 per employee, even if the employee misleads them, if they employ someone who does not have the right to be employed in the UK.

Employers can no longer accept EU passports or ID cards as valid proof of right-to-work, except for Irish citizens. An [online right-to-work check](#) is required for individuals who only hold a Biometric Residence Permit (BRP) or digital proof of their immigration status in the UK, which includes most EU, EEA, and Swiss citizens. To carry out an online right to work check, you will need the applicant's date of birth and their share code, which they will have obtained online. You can then complete the check online by visiting [GOV.UK/view-right-to-work](#). A manual check can still be completed for UK and Irish nationals who can use their passport as proof of right-to-work.

You do not need to retrospectively check the status of any EU, EEA, or Swiss citizens you employed before 1 July 2021.

Ensure identity checks are clear and unambiguous to confirm that the individual presenting on their first day of employment is the same person that was interviewed.

For more about eligibility to work in the UK and an employer's obligations, see the [UK Government's guide for employers](#) on carrying out right to work checks. In February 2021, the Scottish Government also published a [code of practice on the international recruitment of health and social care personnel](#). This code sets out the principles and practices for the ethical international recruitment and appointment of all international health and social care personnel in Scotland. In February 2022 the UK Government added care workers to the [Shortage Occupation List](#) and you should check for any update to immigration status of care workers at the time of recruiting.

The Scottish Government is establishing for a new Centre for Workforce Supply (CWS) for social care. This builds on the existing CWS for health, which was established in 2021, and has been effective in supporting the international recruitment of healthcare professionals across Scotland. NHS Education for Scotland's (NES) [FAQ International Recruitment](#) contains more information about these plans.

PVG and disclosure checks

Disclosure Scotland is an Executive Agency of the Scottish Government, with its duties and powers set out under the Disclosure (Scotland) Act 2020. It helps employers make safer decisions when they are recruiting people. Through the PVG Scheme, it also makes sure unsuitable people don't work with vulnerable groups, including children. Broadly speaking a disclosure is a document containing impartial and confidential criminal history information held by the police and government departments which can be used by employers to make safer recruitment decisions.

Only those undertaking regulated work are eligible to join the PVG Scheme, as detailed below. If an individual is not doing regulated work but they are working for a registered care service then they are likely to be eligible for a [standard](#) disclosure. Basic disclosures are available for anyone and any purpose. Full details on the levels of disclosure available, including sample certificates with guidance on the information contained within each disclosure certificate, can be found at:

<https://www.disclosurescotland.co.uk/disclosureinformation/index.htm>

The PVG Scheme acts on information provided from the following sources:

- criminal history (vetting information) from police systems
- non-conviction information disclosed by the Chief Constable
- court referrals
- referrals made by employers
- referrals made by regulated work providers
- referrals made by professional regulatory bodies.

Disclosure Scotland will keep members' PVG Scheme accounts up to date. If Disclosure Scotland determines that a PVG Scheme member may have become unsuitable to do regulated work, on the basis of new information from the sources above, then the individual will be placed under consideration for listing. Any organisations that Disclosure Scotland know the individual is doing regulated work for (known as an "interested party") will be notified of that change in status and of the outcome of the consideration process once concluded.

Further information and guidance on what constitutes regulated work and whether posts are eligible for PVG Scheme membership can be found at:

<http://www.disclosurescotland.co.uk/disclosureinformation/documents/PVGAct--Guidance--MasterCopy--September2015chapter2.pdf>

It is an offence for an individual to do, or seek to do, regulated work of the type from which they are listed as barred. It is also an offence for an organisation to knowingly recruit an individual who is barred to do regulated work of the type to which the barring relates. Conviction of either of these offences may result in a fine, imprisonment up to five years, or both.

In order to avoid committing the offence, organisations must decide whether the work they are asking an individual to carry out is regulated work. If it is regulated work, the organisation would only be

able to establish if someone is barred or not by ensuring the individual is a PVG Scheme member. Doing this also registers an organisation as an 'interested party' in the individual, meaning Disclosure Scotland will notify the organisation of any changes to their PVG Scheme membership or barring status.

In such circumstances where an individual is not a PVG Scheme member and they are being recruited to do regulated work with an organisation for the first time, an individual should apply for a ['Scheme Record'](#) using an 'Application to Join the PVG Scheme' form. The 'Application to Join the PVG Scheme' form should only ever be used once. Where an individual is an existing PVG Scheme member (whether for adults, children or both groups), any subsequent applications for a Scheme Record or a Short Scheme Record Disclosure (referred to as a 'Scheme Record Update') should be made using the ['Existing PVG Scheme Member Application'](#) form.

Applications for Scheme Record and Short Scheme Record disclosures require to be countersigned by a registered body with Disclosure Scotland. Organisations can either elect to register directly with Disclosure Scotland, in which case nominated persons within that organisation could countersign these forms, or they may choose to use the services of an umbrella body to perform this function. A list of umbrella bodies and their respective fees for this service can be found [here](#).

While an individual may not be barred from doing regulated work and therefore lawfully engaged in regulated work, an organisation will also need to consider any additional vetting information contained within their PVG disclosure record, which may still be relevant to the specific role they are applying for, when reaching a recruitment decision. For example, an individual with driving convictions whose role involves driving children or protected adults may not be barred but an employer may still elect not to employ that individual on the basis of the vetting information.

The success of the PVG Scheme also relies upon employers and other organisations making referrals to Disclosure Scotland where specific criteria have been met. Under the PVG Act organisations and personnel suppliers have a legal duty to make a referral (within three months of taking a final decision about the conduct) when they are satisfied that an individual's conduct meets one of the following criteria:

- harming a child or protected adult
- placing a child or protected adult at risk of harm
- inappropriate behaviour involving pornography
- inappropriate behaviour of a sexual nature involving a child or protected adult
- giving inappropriate medical treatment to a child or protected adult.

This only applies where the organisation has dismissed the individual, would have dismissed if the individual had not left the employment or they have transferred the individual permanently away from regulated work. Further guidance on the referral process, including forms to submit a referral, can be found at: <https://www.disclosurescotland.co.uk/protectionservices/referralprocess.htm> Disclosure Scotland will inform employers if a decision is made to bar a PVG Scheme member, but will not update you regarding any new conviction or other information. For this reason, employers are advised as good practice to carry out periodic Scheme Member Updates. Employers should also

ensure that employees are aware of your policy that they must inform you of any charges, convictions or other personal difficulties that might affect their fitness to practice.

Disclosure Scotland can be contacted directly on 03000 2000 40 or by email at <mailto:response@disclosurescotland.gov.scot>.

Identity and disclosure checks for applicants outwith the UK

With regard to the identity of individuals born or who have lived outwith the UK, employers should take particular care during the recruitment process to ensure they follow up references and undertake other relevant checks before making an appointment. Consideration should still be given to the information described above, albeit this will relate to foreign documents.

Registered persons should still request a criminal record check for an individual with no, or very little, address history in the UK. While it may seem to be of limited value to obtain a disclosure for such an individual, under the 2007 Act the individual will become a scheme member and subject to continuous updating which will provide reassurance that the individual is not barred from regulated work and ensure that a registered person will be notified if the barred status changes.

Disclosure Scotland performs its duties in accordance with the 1997 and 2007 Acts. At present, Disclosure Scotland does not have access to criminal record information held outside the United Kingdom. The Scottish Government in partnership with the UK Government is taking forward work to facilitate access to criminal record information held in other countries.

Employers can ask prospective employees and existing members of staff to provide a criminal record certificate, where available, from their government or an appropriate government/police agency of any country (excluding the UK) where they have lived for 12 months or more (whether continuous or in total), in the 10 years before their application, while aged 18 or over. Guidance on the availability of this service is provided by the [Home Office](#). However, for refugees and asylum seekers this can often be impossible to do, so other mitigations should be used to allow them to be recruited.

It is suggested that the onus is put onto the individual to provide details of their criminal conviction history from their home country or countries of previous residence. It should be remembered, however, that these may require to be translated from the relevant language into English and they may contain details of offences which may not have a direct equivalent or similar offence in Scots law. Disclosure Scotland has no role in this process and the individual or the employer has to meet any additional cost.

As part of the EU Framework Directive 2011/93, Disclosure Scotland will carry out criminal history checks for [PVG](#) and [Enhanced disclosure](#) applications from people with an EU nationality from the 12 EU member states listed below who apply to join the PVG scheme for children for the first time, or those requiring an Enhanced disclosure for a specific role with children. The 12 EU member states below are those which provided the highest volume of applications to Disclosure Scotland during

2016. Disclosure Scotland may occasionally need to contact countersignatures for additional identity information (as outlined in the following page) if it has not been supplied on the application form.

The 12 EU member states below will liaise with Disclosure Scotland as part of the directive.

- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Lithuania
- Netherlands
- Poland
- Portugal
- Romania
- Spain.

The following ID information is required for the participating EU states:

Country	ID Information Required
France	Town of birth. If town of birth is Paris, Marseille or Lyon an arrondissement (district) code is required – number between 1 and 20. French nationals born overseas also require parents’ names.
Greece	Town of birth. If born in Crete then town/region in Crete is required.
Italy	Town of birth
The Netherlands	Town of birth
Poland	Town of birth or parents’ names or ID number
Portugal	Town of birth. A full name of a Portuguese national should comprise of two forenames and two family
Romania	Town of birth. If national ID or national card number provided, town of birth is not required
Spain	Town of birth

Recruiting refugees

People who have been granted asylum and have formal refugee status have a right to work and claim benefits. This includes people from Ukraine, who have been granted the same rights for three years, with support to find work provided by the [Refugee Employment Network](#).

Employers should follow this guidance when recruiting people with refugee status.

- If professional references are not available, you should get a minimum of one character reference from their Scottish Refugee Council case worker or another suitable UK contact.
- For Ukrainians visiting as part of the [Super Sponsor Scheme](#), you can request a reference from their case worker.

- You should complete a PVG, even for people newly arrived in the UK. Although this may not provide any information it means the person will then be subject to monitoring by PVG.
- People you employ should not undertake lone working until successful completion of induction and a satisfactory review of the risk assessment you carried out when you first employed them.
- Supervision and support for people you employ should have a particular focus on the standards and values set out in the Codes of Practice for Social Service Workers.
- You should be satisfied they have sufficient English language skills or that learning is currently underway.

Risk assessing PVG and disclosure check information

First decide whether the PVG or disclosure check information is relevant to the application and whether an assessment is required.

Where information is provided on the PVG Scheme record or disclosure certificate, it is important to risk assess this information following a conversation with, or by gathering information from, the applicant. This should be assessed on an individual basis with specific reference to the job description and person specification of the role. To carry out a risk assessment, we advise that the criteria below should be considered.

- The position and care setting being assessed.

Consider the overall risk to users from the service you provide and from the specific position being filled. Some service types present inherently more risk because of the vulnerability of people experiencing care, their isolation and the hours of care being provided. Will the candidate be managing the service, supervising staff, providing direct care and support or just have contact with people? Other questions to consider include:

- will the individual have unsupervised access to people experiencing care?
- how articulate and empowered are people experiencing care?
- how well represented are people experiencing care?
- what is the extent of the care (with vulnerability increasing for full day, full year or overnight care)?
- does the type of care increase vulnerability (eg trips away, intimate personal care)?
- the nature of the offence.

The nature of the offence

Some offending behaviour carries more risk for social care settings and you should take this into account, including:

- sexual offences
- offences of abuse or neglect against children or vulnerable adults
- other offences involving children or vulnerable adults
- where the offence involved a breach of trust from being in a position of authority or power
- whether the offence involved a failure to maintain appropriate professional boundaries
- where there has been intimidation, threats of violence or actual violence

- serious cases of fraud or dishonesty.
- The circumstances of the offence

The circumstances of the offence

Relevant matters for you to consider include:

- the nature of the disposal (fine, community payback order etc)
- when the offence took place
- the individual's circumstances at the time
- whether or not the individual's circumstances have changed since the offence and the nature of the changes in these circumstances, including education, work, family, address and home circumstances
- whether or not the offence is part of a pattern of offences, and whether the pattern has continued in recent times
- the applicant's attitude to the offending behaviour.

Relevant matters to consider include:

- did the individual declare their conviction to you and if not what is their explanation for this?
- is the applicant's account of the offence and their circumstances at the time rational and believable?
- does the individual understand the need for the relevance of the PVG/disclosure information to be considered?
- do they express regret or learning from this previous behaviour?

Your risk assessment process should also consider these points:

- what further information is required or should be considered?
- how will this information be recorded and assessed?
- who participates in the process and who makes the final decision?
- how are risk management actions communicated confidentially to those who need to ensure they are in place?
- how will the decision be recorded?

As a result of the risk assessment, you may decide to employ an applicant and at the same time introduce safeguards, such as a probationary period or more intense supervision and monitoring.

The Risk Management Authority has produced a number of publications, including guidance to help professional staff working in justice services to assess risks posed by offenders in the community. These are available at <http://www.rmascotland.gov.uk>.

Even if as an employer you have decided to employ someone with a criminal conviction, a professional regulator may, in some circumstances, still decide to undertake an investigation into the worker's suitability for registration and their fitness to practise.

Qualification checks

Ask the applicant for proof of qualifications required for the post. Applicants are normally asked to bring their original certificates with them at the interview and you should check that the details are an exact match to the details on the application form. If you are uncertain about the validity of a document provided, you can check with the awarding body or registering body. The applicant should be informed that these checks will take place and copies of relevant documents will be held on their file.

If the qualification was undertaken in another country and is in another language, this should be translated to ensure it is equivalent to the minimum essential employer requirements. For registration purposes non UK social work qualifications need to be fully assessed by the SSSC, and applicants should wait until this process is complete before applying or working as a social worker. For all other parts of the SSSC register, non UK qualifications are not accepted for assessment, and applicants should register with a condition to gain the relevant qualification.

For group awards such as an SVQ award you may want to ask for the module breakdown sheet in support of the certificate. To better understand qualifications from across the UK and the Republic of Ireland, see the SCQF's '[Qualifications can Cross Boundaries](#)' leaflet which also provides a comparison with the European Qualifications Framework (EQF).

SVQs are all being given an SCQF level. Although older qualifications will still be called SVQ3, SVQ2 etc, they are being given an SCQF level to ensure consistency between the levels of SVQ across different subjects. You can check older qualifications on the SCQF Partnership's database.

For more information about recognition of prior learning visit the SSSC [Fitness to Practise](#) webpages.

Professional registration

Check the online register of the appropriate professional regulatory body, such as the SSSC, NMC, HCPC or GTCS to confirm that the applicant is registered as they have declared. For almost all registered service types, all managers and staff must be registered with a professional regulator, with this usually being the SSSC. You must check that the applicant is registered and whether there are any conditions on their registration requiring them to obtain a qualification or any restriction on their registration. If the applicant is not registered, and has not claimed otherwise during recruitment, as their employer you must ensure that they apply for registration. As their employer, you are required to endorse their application and after they are registered support their ongoing professional registration. The SSSC allows a six month period after starting in a role to apply for registration although applications should be encouraged to be made as soon as reasonably practicable. It is an offence to employ an unregistered worker beyond the mandatory registration date unless the employer has a reasonable excuse. Guidance can be found here <https://www.sssc.uk.com/knowledgebase/article/KA-03028/en-us>.

More information on registering with the SSSC can be found on the SSSC's [Registration webpage](#).

Staff records check

It is worth checking your staff records to confirm that the person you recruit has not previously worked for the organisation.

References

The purpose of references is so that prospective employers can obtain relevant information to check an applicant's employment history, experience and suitability for a post. While there is no specific legal obligation to provide references, social care employers must comply with their SSSC Code of Practice, in particular:

"1.3 Ask for and provide accurate and appropriate references to share information relating to a person's suitability to work in social services."

Obtaining two relevant professional references, including one from the applicant's current or most recent employer, is an essential part of recruiting someone who is safe and suitable for the job they will be doing. If the most recent employer is not relevant because of the role not providing care and support, then you should seek a reference from the most recent relevant employer. Generic 'to whom it may concern' references are not appropriate, as verification of this type of reference is problematic.

Employers must provide a reference that is accurate, dependable and does not contain any material misstatement or omission. Any settlement or confidentiality agreement must not restrict employers from providing a reference that is accurate, dependable and does not contain any material misstatement or omission. Similarly, any use of such agreements should not compromise the employer's duty of care to vulnerable people and the wider public interest, such as by restricting employers from referring a worker to the SSSC or another regulatory body.

For regulated work posts, reference requests must specifically ask about any safety concerns regarding the applicant, such as previous disciplinary action, dismissals, allegations pending investigation and referrals to professional bodies, as well as whether the referee is satisfied that the person has the ability and is suitable to undertake the post in question. You must make every effort to obtain responses to these questions and using a proforma is a good way of ensuring all questions are answered. Reference requests should remind the referee that:

- they have a responsibility to ensure that the reference is accurate, dependable and does not contain any material misstatement or omission
- relevant factual content of the reference may be discussed with the applicant.

See examples of suitable proformas for requesting ([Reference template A](#)) and providing references ([Reference template B](#)). The CIPD also provides [factsheets](#) on case law on providing references and how to set out references.

Satisfactory references must be obtained before appointing an applicant. Permission should be obtained from candidates to contact their referees, including when a reference from a current

employer would be sought. A copy of the job description and/or person specification for the post for which the person is applying should be included with all requests.

If the post involves directly supporting or caring for people, or in other ways has an impact on people experiencing care, it is important that you find out whether the referee is satisfied that the applicant is suitable for this role and if there are any concerns. This can include asking for details about the applicant's character, strengths and weaknesses relating to the suitability for the role they have applied for. When the Care Inspectorate provides a reference, for example, information about an applicant's work-based attributes is given only if the employee/former employee has applied for a role that will have the potential to impact on people. For references involving regulated work, applicants are graded for their value base, general conduct, competencies for their role at the Care Inspectorate and their attitude to work.

You must ask about the referee's relationship with the applicant, including their working relationship, how long has the referee known the applicant and in what capacity. This is so you can satisfy yourself that the reference from the current or most recent employer is from an appropriately senior manager representing the organisation and it is not, for example, a reference from a former peer operating at the same level or grade. Employers should have clear policies about who can sign off references on behalf of the organisation.

For references from previous employment not related to care, more emphasis should be placed on core attributes such as reliability and trustworthiness. The Care Inspectorate and SSSC recognise that it is not always possible to obtain professional references, such as for refugees, school leavers or other applicants without a previous work record. In these circumstances, you should be satisfied with the explanation for this and record why in the staff file. If there have been limited previous employers, a character reference from a professional person who has known the candidate, preferably for more than one year, would be suitable. For character references, you should share a copy of the job description and/or person specification with the referee to give them information about the role in case they are aware of any reason why the candidate might be unsuitable for the work. Some self-employed applicants may not have a previous employer available and in these circumstances, references should be obtained from people with professional knowledge of the applicant. Referees must not be relatives or friends of the applicant.

Applicants have the right to challenge employers regarding references and there has been an increase in employers providing minimal references providing only factual dates of employment. Applicants may be able to claim damages at an Employment Tribunal, but they must be able to show that the information was misleading or inaccurate and that they have suffered a detriment such as withdrawal of a job offer. Where a minimal reference has been received, a phone call should be made to the previous employer to seek additional verbal information.

There may be other circumstances where additional professional references should be sought, such as:

- there have been difficulties with a former manager
- the candidate gives an unusual or inconsistent reason for leaving a job
- they have no recent work record
- an earlier job is particularly relevant to the current application

- an applicant has previously worked in the care sector but have not given this employer as a referee
- one referee is unavailable or refuses to provide a reference.

If an additional reference is sought, employers should inform the candidate of this. The Care Inspectorate recognises there may be some circumstances where it will be difficult to obtain two references and where this is the case and the above options have been exhausted, it is important to take a proportionate and risk-based approach, whilst ensuring the safety and wellbeing of people who use services and staff, to address this. In the absence of two professional references, the Care Inspectorate expects to be able to see evidence of the employer implementing safeguards in response to the risk to people experiencing care, which may include:

- if there are gaps in an individual's employment history, ensuring these are fully explored and documented
- values based interview
- evidence of higher level of supervision
- 'sign off' of employee competency after a period of induction and training
- character reference from a professional person who has known the applicant for more than one year
- other verification of what the individual has been recently doing.

The Care Inspectorate may review recruitment records when inspecting and can make requirements and recommendations if employers do not take the actions set out above to obtain two professional references. The Care Inspectorate can also raise concern at provider level if there is a care service with a policy of only requesting minimal references.

Health check

For most roles, it is not necessary for applicants' health to be checked prior to an offer of employment but once an employer has offered an applicant a position, whether unconditionally or conditionally, it is permitted to ask appropriate health-related questions to determine whether any reasonable adjustments to enable the employee to carry out their duties require to be made.

If it is necessary to ask health-related questions before making an offer, you can do so only in the following circumstances:

- to determine whether an applicant can carry out a function essential to the post
- to take positive action to assist disabled people
- to monitor, without revealing the applicant's identity, whether they are disabled
- to check whether an applicant has a specific disability where not having that disability is a genuine occupational requirement of the post.

The EHRC's ['Pre-employment health questions: guidance for employers on Section 60 of the Equality Act 2010'](#) contains detailed advice on health checks. The EHRC advises employers to state that all offers of employment are subject to or on condition of a satisfactory health report.

Under UK law employers must offer workers a free health assessment carried out by a qualified health professional before they become a night worker. You must take into account that night work might increase an employee's stress levels and ensure that they receive a follow-up examination by a health professional if you are unsure if they are fit for night work. A repeat assessment must be offered regularly. An employer must offer suitable other work where possible if an employee has health problems that a doctor says are related to night work. You must keep confidential records of the health assessments (keep for 2 years) for night working and the dates when assessments were offered (if an employee did not want one). For further information, see guidance from the [UK Government](#) and the [Health and Safety Executive](#).

Exceptional circumstances and supporting short notice recruitment and deployment

It is a requirement to have people undertaking regulated work PVG checked. The Care Inspectorate and SSSC expect full vetting and checks to be completed before an individual starts work. However, in exceptional circumstances, if in the difficult position of requiring more staff in order to maintain service levels and ensure the safety and wellbeing of people experiencing the service, you will need to consider the various risks associated with employing someone without knowledge of appropriate checks.

Consider how best to employ an unchecked person in the safest capacity. They should not be alone with people who experience care or provide intimate care. You may need to reconfigure a rota or enlist the support of your existing staff in order for this to work.

You should always discuss these exceptional situations with your care inspector, so that the Care Inspectorate can maintain oversight to ensure that this practice is exceptional with adequate safeguards in place and is not used routinely.

Due to the exceptional circumstances with regard to staffing during the pandemic, the Care Inspectorate permitted providers to deploy staff before satisfactory recruitment checks were returned, providing all appointments were risk assessed and staff with pending checks were mentored and supervised at all times. In light of the pandemic, the Care Inspectorate and SSSC also permitted greater flexibility regarding staff being temporarily deployed to work in different types of care services. Staff are usually registered by the SSSC for a particular type of care service and require to make a separate application in order to work in a different setting. During the pandemic, the Care Inspectorate and the SSSC allowed providers to recruit and deploy SSSC registrants flexibly across different service types in order to fill gaps in staffing directly caused by Covid-19. This meant that staff already regulated by the SSSC for one part of the register, such as day care, could be temporarily redeployed to work in another service type, such as a care home or care at home, in response to urgent staffing shortages. In the event of future exceptional circumstances, the Care Inspectorate and the SSSC will provide advice, including expecting providers to carry out an individual risk assessment and ensure that an appropriate level of induction and training is given.

Stage 5: Contract of employment

Employers are legally required to provide written particulars of terms and conditions, which is the basis of your future relationship with your new employee and need to set out the responsibilities that each party has.

This should include details such as:

- post title
- brief description of what they are employed to do
- place of employment
- pay and intervals at which remuneration is to be paid
- annual leave entitlement
- working hours
- any sick pay scheme
- pension scheme
- notice required for termination of employment or end date if fixed term contract
- any probationary period
- any continuous service from previous employment
- where the disciplinary/grievance procedures may be located
- maternity and paternity leave
- flexible work conditions.

In addition, you may wish to consider inclusion of the following:

- the employee's duty to declare any criminal charges and convictions to you and the relevant registering body
- requirement of the employee to register and maintain registrations with the SSSC or another professional regulator
- requirement to have the right to work in the UK.

[ACAS](#) has a template and detailed advice on what must be written in an employment contract.

Stage 6: Post selection considerations

Induction and probation

The SSSC's [Codes of Practice](#) for Employers of Social Service Workers states that you will:

"1.4 Give workers clear information about their roles and responsibilities, relevant legislation and the policies and procedures they must follow in their work."

Employers comply with this through a formal induction process, which is a legal requirement under health and safety legislation. For early learning and childcare, the Scottish Government has developed a [National Induction Resource](#) and a new [Social Care Induction platform](#) has been introduced by the SSSC and NES for adult social care workers and employers.

Many employers also use probationary periods for new employees, after which a decision will be made regarding permanent or extended employment. A probation period provides employers with an additional safeguard and helps both employer and employee decide whether the role is right for the organisation and the individual after a trial period. Although a probationary period has no legal status, this management tool can provide an additional safeguard.

Referrals to statutory regulators

If significant concern about a worker's fitness to practise arises, the employer has a duty to notify the relevant statutory bodies of the concern. For registered social care services, this will include the Care Inspectorate and the SSSC or another professional regulator the individual is registered with, such as the NMC, HCPC or GTCS. For example, the SSSC's Code of Practice for Employers of Social Service Workers states:

"Follow guidance on making a referral to the SSSC about a worker whose fitness to practise may be impaired. If appropriate, tell the worker that you have made a referral".

Where individuals are employed in regulated work, employers have a duty to make a referral to Disclosure Scotland under certain circumstances for consideration for disqualification (see above).

You should let an employee know if they have been or will be referred.

Supporting continuing professional registration

Staff registered with the SSSC or another professional regulator are personally responsible for ensuring that they maintain and meet any requirements on their registration.

However, employers have a legal responsibility to make sure that all of their staff are appropriately registered. For SSSC registrants, MySSSC will help you manage and track your workers' registration. Employers should also actively assist registrants to maintain their professional registration through

supervision and learning and development, including supporting registrants to meet any condition on their registration to obtain a qualification.

Think about who has access to MySSSC and how frequently you check the registration status of your employees.

Several individuals within your organisation can be nominated to receive email alerts about changes in a worker's registration, for example if they are to be removed from the register for non-payment of fees. Think about who is best placed within your organisation to receive these alerts.



Annex A – Abridged version

Scottish Government’s Health and Social Care Standards (2018) must be considered by the SSSC and the CI when regulating workers and services. They show that relationships between people experiencing care, and those providing direct care and support, determine the quality of care more than policies, procedures and processes.

The CI’s quality frameworks use the Standards to focus on people’s lived experiences and outcomes. They help identify what makes a positive contribution to the quality and effectiveness of care provision, support services to evaluate their own performance and CI inspectors to provide independent assurance.

Equality, diversity and inclusion

The [CIPD report on Building Inclusive Workplaces](#) defines diversity, equality, equity and inclusion. The definitions explain how to uphold equality and avoid discrimination in our recruitment practices whilst ensuring equity and inclusion. Workforce diversity brings in people from different backgrounds and cultures, enriching the quality of care and giving people more choice as to who provides their care and support.

The Equality Act 2010 protects people with the following protected characteristics from discrimination: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. It makes it unlawful for UK employers to discriminate when recruiting staff and forbids employers from asking [specific questions](#) when recruiting.

You must not ask candidates about protected characteristics, their marital status or whether they have children or plan to have children. You must not use membership of a trade union as a factor in deciding whether to employ someone. You cannot choose a candidate who is not as suitable for the role just because they have a protected characteristic, but you can if they are both suitable for the job and you think that people with that characteristic are underrepresented in social care.

To make your recruitment accessible, and attract a wide range of applicants, ensure there are inclusive communication tools and language in recruitment materials and activities. The SSSC’s [‘Right values, right people: recruitment toolkit’](#) gives advice on promoting equality and diversity.

Values-based recruitment complements traditional recruitment methods and ensures that the applicant’s values and behaviours are aligned to those of your organisation. A robust values-based recruitment process can contribute to risk mitigation where standard references or criminal record certificates are not available.

Health and disability

An employer must ask whether an applicant needs any reasonable adjustments for any part of the recruitment process. If an applicant has indicated a disability, or the employer becomes aware of it, the employer must consider making adjustments to assist the applicant to apply for the post advertised and attend for interview.

Except in very restricted circumstances or purposes, you are not allowed to ask an applicant about their health or disability until the person has been offered a job, including questions about previous sickness absence. Once you have made a job offer you can ensure that someone's health or disability would not prevent them from doing the job with reasonable adjustments. Support to make reasonable adjustments be available through [Access to Work](#).

Employability and work placement schemes

Employability refers to a person's ability to gain and maintain employment. Employability services help people overcome barriers to employment and employers to recruit from a diverse range of people. Support can be accessed from [Job Centres](#), [Fair Start Scotland](#), [local authorities](#), colleges, independent training providers and charities.

Support is most effective when shaped around a person's unique circumstances and goals. A work coach can help with specific issues like access to childcare, travel costs and managing finances. They also arrange work experience opportunities to help participants choose the type of career they are most suited to. If offering a work experience placement consider whether a criminal record check from Disclosure Scotland will be necessary, if so many employment support services fund Disclosure Scotland checks and PVG applications.

Candidates with criminal convictions

A criminal conviction can mean people experience stigma and unfairly reduced life chances. Some people are more likely to have criminal convictions because of their background, including those with lived experience of care or trauma. [Scotland Works for You](#) aims to improve the employment opportunities for these people.

People sometimes assume they will not get a job in social care if they have any conviction, but a conviction will not necessarily prevent someone from working, that will depend on the nature of the conviction and the context. For some social care roles, having lived experience of the justice system can be of value to both people who use services and to services as a whole. This is because the person with lived experience can offer meaningful knowledge and understanding of the justice system, including what can lead people into the system and in turn what can support someone out of the system.

Support for recruiting young people

Young people make a valuable contribution to the sector and there are a range of supports to aid recruitment.

- [My World of Work](#) is the national careers platform, hosted by [Skills Development Scotland](#) and is used by careers advisers across all schools and high street careers centres. In the [‘Employability and work placement schemes’](#) section you could get involved by offering insight sessions or work placements.
- The [Young Person’s Guarantee](#) website describes the commitment for every 16 to 24 year old in Scotland to have a job, apprenticeship, education, training or volunteering opportunity.
- [Apprenticeships.scot](#) is the national apprenticeship website, also hosted by [Skills Development Scotland](#). You can use this platform to advertise modern apprenticeship vacancies within your organisation.

Care experienced young people

Care experienced young people face barriers in relation to being recruited and progressing in the workplace. As an employer you are encouraged to take positive action to recruit a young person with a care background and many local authorities support care experienced young people to access employment opportunities.

Evidence suggests people may continue to face lasting impacts in education, training, and work as a result of early experiences in care. [IRISS](#) and [The FrameWork Institute](#) have produced helpful information about the barriers that care experienced people face.

Some employers are asking for voluntary disclosure of care experience, so they can help with application and interview resources, such as IT support, travel and subsistence expenses. Care experienced young people can also benefit from being offered feedback on what they did well during the recruitment process and how this could be strengthened for further applications.

Volunteers

Much of this guidance is also relevant for recruiting volunteers who make a valuable contribution to social care and are essential for some services, working alongside paid staff. Supervising and supporting volunteers is a significant role for many paid staff. For more information and guidance on recruiting and supporting volunteers, including details of your local volunteer centre, contact [Volunteer Scotland](#).

Involving care experienced people in recruitment and selection

People using a care service, and their family members, have the opportunities and support to be involved in the recruitment process in a way that takes their views into account. They can also be consulted during the induction period, to help evaluate staff members’ values, communication and

development needs. Some organisations also have lived user representation within their governance structures.

Recruitment

Developing your recruitment policy

Employers should have a written recruitment policy, which should follow this guidance and be fully compliant with all relevant legislation, and that shows an organisation's commitment to safeguarding and promoting the rights and wellbeing of staff and the cared for. The policy should include a statement on values-based recruitment and how equality and diversity is promoted. Statements encouraging applications from people with protected characteristics and criminal convictions should also be included.

Application form

Some organisations accept CVs instead of application forms which is acceptable under this guidance providing the right information is gathered at other appropriate points in the recruitment process. You can also accept a CV initially, and then require candidates moving forward in the recruitment process to complete your organisation's application form (for example upon the offer of an interview, or after it has taken place). By accepting CVs at least for the early stages in the process you could widen access to roles in your organisation and attract interest from more candidates on the use of application forms is a helpful guide for considering this issue.

A CV/application form should provide:

- a full chronological employment history, including start/end dates, reason for ceasing and explanations for gaps in employment.
- a statement of academic and/or vocational qualifications relevant to the position.
- any disciplinary or grievance procedures and any 'live' formal warnings.
- details of current or former SSSC registration or other relevant, declaration of any finding by a regulatory body and any conditions that apply to current registration
- information on the PVG Scheme membership.
- a declaration of any family or close relationship to existing employees and relatives of people using a service provided by your organisation.
- two references, including one from the applicant's current or most recent employer, making clear that references will not be accepted from relatives or friends.
- a statement or other evidence of the personal qualities, values and experience the person believes are relevant to the post and how they meet the person specification.

Ensure application forms are not discriminatory. For example, to require a form to be filled out 'in your own handwriting', where written English is not relevant to the post, may discriminate against applicants whose first language is not English. It could also discriminate against applicants with disabilities that affect writing ability.

Retaining recruitment information

Only retain recruitment information for as long as there is a clear business need. You have a legal responsibility to protect personal data and comply with the Data Protection Act 2018. You can retain recruitment records for six months to one year, in case of a recruitment complaint, discrimination challenge, or to assist in the assessment of ways to improve the recruitment process. The Care Inspectorate expects employers to retain full records for people who are appointed.

Settlement or confidentiality agreements

Settlement or confidentiality agreements between an employer and employee at termination of a contract agree that certain information will not be discussed or passed on. Settlement agreements do not affect an employer's duty to make referrals and pass information to Disclosure Scotland or to professional regulators. Neither do they prevent employers from fulfilling their responsibility under the SSSC's [Codes of Practice](#) to "Ask for and provide accurate and appropriate references to share information relating to a person's suitability to work in social services".

Recruitment and employment agencies

If you decide to employ a recruitment agency then applicants must be informed that they are applying to a recruitment agency rather than direct to the employer.

Nurse agencies are regulated with the Care Inspectorate and must adhere to the SSSC's [Codes of Practice](#) and the [NMC's expectations for employers](#). Social care employment agencies on the other hand are not registered with the Care Inspectorate, but their staff are required to be individually registered with the SSSC (or other regulator) and comply with the SSSC's Codes of Practice for Social Service Workers. It their responsibility to carry out recruitment checks, but responsibility for ensuring that people who experience care are safe lies with the care service, so seek formal assurances that individuals have been recruited robustly.

For more details on recruitment agencies please refer to the section above.

Digitally assisted recruitment

In addition to reducing costs, harnessing the power of the internet to find and match employers and employees benefits all parties. The use of online tests and exercises can enhance the efficiency of screening processes by increasing diversity, as not having to travel can mean equal access for job seekers from remote communities.

Identity and background checks can also be carried out online and specialist platforms are becoming more common. Remote background checks is more efficient and allows data to be shared, including with regulators. You should ensure that any platform complies with legal and security requirements, including necessary permissions obtained for the use of personal data.

The 6-stage recruitment process

Stage 1: Defining the role

- Develop accurate job descriptions and person specifications.
- Identify role competencies through job analysis, using the SSSC's Codes of Practice, the Standards and the Care Inspectorate's quality frameworks.
- Ensure that the job description and person specification are values-based and fully reflect the focus of the Standards.
- Job descriptions should clearly state the main duties and responsibilities of the post.
- A person specification should include the qualifications, knowledge, experience, registration requirements and any other requirements.
- The competences and qualities the applicant should demonstrate or be able to develop.
- State the qualifications expected for the role and how you'll support a successful applicant to meet the SSSC standard or qualification within a 5-year period.
- There are specific requirements regarding the fitness of managers of registered care services. As the regulated service provider, you have primary responsibility to employ a person who is fit to act as a manager under the 2011 Regulations. SSSC registered managers are expected to have a minimum SCQF level 7, obtaining a level 9 within 5 years. Managers registered with other regulators do not have this requirement.
- A manager must have sufficient knowledge, skills and experience regarding both practice and management.

Stage 2: Advertising and shortlisting

- Ensure that how you advertise does not indirectly discriminate against anyone with a protected characteristic.
- Do not state or imply in an advert that you will discriminate against anyone and only use phrases like 'recent graduate' or 'highly experienced' when these are actual requirements of the job.
- Do not state or imply that a job is unsuitable, or that reasonable adjustment cannot be made, for disabled people generally or a disabled person with a particular type of impairment.
- You are allowed to advertise a role only for disabled applicants or that you are encouraging disabled people to apply.
- Include a link to where more detailed information can be found.
- Be clear about the nature of the work and how applicants should respond to the advertisement.
- Think about different routes to recruitment to obtain a broader diversity of applications.
- Invite potential applicants to contact you for an informal conversation to help them decide whether to apply.
- Shortlisting must comply with equality law and the EHRC's guidance ['What Equality Law Means for You as an Employer'](#) contains detailed advice on this.
- If possible, shortlisting should be undertaken by more than one person and by members of the interview panel.
- Interview letters or emails should clearly state what the interview or assessment process will involve and ask applicants if they need any reasonable adjustments in order to participate equally.

Stage 3: Assessing your applications and offering the role

- Focus on the suitability of applicants and their disposition to providing compassionate and respectful care and support, rather than previous experience and competency.
- If you hold a screening interview, ensure it adopts the same approach as the main interview and is equally compliant with equality law.
- When interviewing in person or online, the process should be structured and address the criteria from the job description and person specification.
- Have a minimum of two interviewers who have the necessary authority to make decisions about appointment, are familiar with this guidance and understand their responsibilities under equality legislation.
- Questions should be behavioural and, where possible, focus on what applicants have done, not just on what they might do.
- Where appropriate for the post, interviewers should follow up applicants' responses to questions and probe critical areas such as attitudes to control, punishment, conflict, sexuality, management of sexualised behaviour, as well as the influence of their own experience (for example of being parented or of parenting) on their approach to providing care and support.
- The SSSC's ['Right values, right people: recruitment toolkit'](#) also gives relevant advice for employers to promote equality and diversity when taking on new staff.
- Scoring criteria should be applied to all applicants equally, the scores recorded, shared by panel members and considered alongside all available candidate information.
- An offer of appointment to the successful applicant should be conditional upon:
 - verification of the applicant's identity, if that could not be verified at interview stage
 - verification of the right to work in the UK
 - verification of professional registration and qualifications, if not verified at interview
 - a PVG Scheme record check
 - the receipt of satisfactory references.
- Be clear about responsibilities to maintain professional registration and to meet qualification, CPL or revalidation requirements.

Stage 4: Essential background checks

Right to work checks

- An employer must check an applicant's right to work in the UK including those they assume are eligible because of name, race, accent or other personal characteristics.
- Employers cannot accept EU passports or ID cards as valid proof of right-to-work, except for Irish citizens. An [online right-to-work check](#) is required for individuals who only hold a Biometric Residence Permit (BRP) or digital proof of their immigration status in the UK PVG checks
- A PVG check, for individuals engaged in regulated work, discloses impartial and confidential criminal history information held by the police and government departments.
- While an individual may not be barred from doing regulated work an organisation should consider information, within a PVG disclosure, which is relevant to the role applied for. For example, an individual with driving convictions, whose role involves driving children or protected adults, may not be barred but could be considered unsuitable.

Overseas criminal record check

- Employers can ask applicants and existing members of staff to provide a criminal record certificate, where available, from their government or an appropriate government/police agency of any country (excluding the UK) where they have lived for 12 months or more (whether continuous or in total), in the 10 years before their application, while aged 18 or over. However, for refugees and asylum seekers this can often be impossible to do, so other mitigations should be used to allow them to be recruited.

Risk assessments

- If a PVG or disclosure check information is relevant to the application then risk assess this information, after gathering further information from the applicant, on an individual basis with specific reference to the job description and person specification of the role.
- Consider the overall risk to users, based on the service you provide and the specific position being filled. You may decide to employ an applicant but introduce safeguards, such as a probationary period or more intense supervision and monitoring.

Qualification checks

- Applicants must provide proof of qualifications required for the post and the qualifications they have declared. If you are uncertain about the validity of a document provided, you can check with the awarding or registering body.
- For more information about recognition of prior learning visit the [SSSC Fitness to Practice webpages](#).

Professional registration

- Check the online register of the appropriate professional regulatory body to confirm that the applicant is registered as they have declared and there are no conditions. All managers and staff must be registered with a professional regulator, usually the SSSC.
- If the applicant is not registered, and has not claimed otherwise during recruitment, as their employer you must ensure that they apply for registration.
- The SSSC allows a six-month period after starting in a role to apply for registration.
- More information on registering can be found on the SSSC's [Registration webpage](#).

References

- Social care employers must comply with the SSSC Codes of Practice that states they must both ask for and provide references.
- Obtaining two professional references, including one from the applicant's current or most recent employer, is an essential part of recruitment.
- If the most recent employer is not relevant, then you should seek a reference from the most recent relevant employer.
- Generic 'to whom it may concern' references are not appropriate.

- For regulated posts, reference requests must ask about any safety concerns regarding the applicant, such as previous disciplinary action, dismissals, allegations pending investigation and referrals to professional bodies, as well as whether the referee is satisfied that the person has the ability and is suitable to undertake the post in question.
- Satisfactory references must be obtained before appointing an applicant.
- You must ask about the referee's relationship with the applicant, including their working relationship, how long has the referee known the applicant and in what capacity.
- It is not always possible to obtain professional references, such as for school leavers or refugees. If you are satisfied with the explanation for this, record why in the staff file. If a previous employer is not available or suitable, a character reference from a professional person who has known the candidate, preferably for more than one year, would be acceptable.
- For character references, share a copy of the job description and person specification to give them information about the role in case they are aware of any reason why the candidate might be unsuitable.
- In cases where it is difficult to obtain two references, and other options have been exhausted, take a proportionate and risk-based approach, whilst ensuring the safety and wellbeing of people who experience services and staff. Record evidence of implementing safeguards in response to the risk, these may include:
 - Fully exploring and documenting gaps in employment history.
 - Conducting a values-based interview.
 - Providing evidence of a higher level of supervision.
 - A 'sign off' of employee competency after a period of induction and training.
 - A character reference from a professional person who has known the applicant, preferably for more than one year.
 - Other verification of what the individual has been recently doing.

Health check

- Once an employer has offered an applicant a position, it is permitted to ask appropriate health-related questions to determine whether any reasonable adjustments are required.
- The EHRC's ['Pre-employment health questions...'](#) contains detailed advice on health checks and advises employers to state that all offers of employment are subject to or on condition of a satisfactory health report.
- Under UK law employers must offer workers a free health assessment carried out by a qualified health professional before they become a night worker.

Exceptional circumstances and supporting short notice recruitment and deployment

- In exceptional circumstances, for example needing people to work to maintain service levels and the safety and wellbeing of people experiencing the service, you may employ someone without completing all appropriate checks.
- Consider how best to employ an unchecked person in the safest capacity. They should not provide intimate care or be alone with people who experience services.
- Always discuss exceptional situations with your care inspector.

Stage 5: Contract of employment

- Employers are legally required to provide written particulars of terms and conditions.
- [ACAS](#) has a template and detailed advice on what must be written in an employment contract.

Stage 6: Post selection considerations

Induction and probation

- Employers comply with SSSC's [Codes of Practice](#) through a formal induction process, which is a legal requirement under health and safety legislation.
- For early learning and childcare, the Scottish Government has developed a [National Induction Resource](#).
- A new [Social Care Induction platform](#) has been introduced by the SSSC and NES for adult social care workers and employers.
- Employers may use a probationary period for new employees, which provides an additional safeguard and helps both employer and employee decide whether the role is right for the organisation and the individual.
- Although a probationary period has no legal status, this management tool can provide an additional safeguard.

Referrals to statutory regulators

- If concern about a worker's fitness to practise arises, the employer has a duty to notify the relevant statutory bodies (for example the SSSC or Care Inspectorate).
- Where individuals are employed in regulated work, employers have a duty to make a referral to Disclosure Scotland.
- You should let an employee know if they have been or will be referred.

Supporting continuing professional registration

- Staff registered with the SSSC, or another regulator, are personally responsible for ensuring that they maintain and meet any requirements on their registration.
- Employers have a legal responsibility to make sure that all of their staff are appropriately registered.
- Employers should actively assist registrants to maintain their professional registration through supervision, learning and development.

Key contacts

ACAS

Telephone: 0300 123 1100

Website: www.acas.org.uk

Scottish Social Services Council

Telephone: 0345 60 30 891

Email: enquiries@sssc.uk.com

Website: www.sssc.uk.com

Care Inspectorate

Telephone: 0345 600 952

Email: enquiries@careinspectorate.com

Website: www.careinspectorate.com

CIPD (Chartered Institute of Personnel and Development)

Telephone: 0208 612 6200

Website: www.cipd.co.uk

Disclosure Scotland

Telephone: 03000 2000 40

Email: response@disclosurescotland.gov.scot

Website: www.mygov.scot

Equality and Human Rights Commission

Telephone: 0161 829 8327

Email: correspondence@equalityhumanrights.com

Website: www.equalityhumanrights.com

GTCS

Telephone: +44 (0)131 314 6080

Email: gtcs@gtcs.org.uk

Website: www.gtcs.org.uk

HCPC

Telephone: 44 (0)300 500 4472 Email: registration@hcpc-uk.org

Website: www.hcpc-uk.org

NMC

Telephone: 020 7462 8850

Email: employerlinkservice@nmc-uk.org

Website: www.nmc.org.uk

Scottish Credit and Qualifications Framework Partnership

Telephone: 0141 225 2922

Email: info@scqf.org.uk

Website: www.scqf.org.uk

Scottish Human Rights Commission

Telephone: 0131 297 5750

Email: hello@scottishhumanrights.com

Website: www.scottishhumanrights.com

UK Visas & Immigration

Sponsorship, Employer and Education Helpline on 0300 123 4699.



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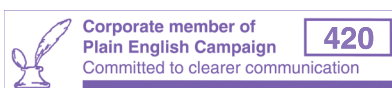
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This publication is available in alternative formats on request.



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