

GUIDANCE ON RECRUITING PEOPLE WITH CRIMINAL & CONFLICT RELATED CONVICTIONS

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1.0 INTRODUCTION

The South Eastern Health & Social Care Trust (hereafter known as 'the Trust') aims to recruit the most suitable applicant(s) in line with the Trust's Recruitment & Selection Procedures.

The Rehabilitation of Offenders (Exceptions) (NI) Order 1979 provides additional protection to vulnerable groups and applies to all posts within the Health and Social Care Services.

Under this Order, no conviction is ever regarded as spent. The Trust is committed to equality of opportunity for all applicants, including those with criminal and conflict related convictions. Whilst the disclosure of information does not automatically debar an individual from employment, it is essential that all criminal offences and / convictions are disclosed to allow the Trust to adequately consider their relevance to the post in question. We undertake to treat all applicants for positions fairly and not to discriminate unfairly or unlawfully against the subject of a Disclosure on the basis of conviction or other information revealed.

The Trust is committed to equality of opportunity, and to providing a service which is free from unfair and unlawful discrimination. We ensure that no applicant or member of staff is subject to less favourable treatment on the grounds of gender, marital status, race colour, nationality, ethnic or national origins, age, sexual orientation, responsibilities for dependants, physical or mental disability political opinion or offending background, or is disadvantaged by any condition which cannot be shown to be relevant to performance.

We actively promotes equality of opportunity for all with the right mix of talent, skills and potential, and welcomes applications from a wide range of candidates, including those with criminal records. The Trust recognises the importance of ensuring that applicants who have been convicted or cautioned are treated fairly and given every opportunity to establish their suitability for positions with the Trust.

The selection of candidates for selection will be based on those who meet the required standard of skills, qualifications and experience as outlined in the essential and desirable criteria.

It should be noted that the Regional Recruitment Shared Services Centre (hereafter known as 'RSSC') process the recruitment & selection procedure on behalf of the Trust, with the exception of appointments to Non-Medical & Dental posts and Senior Executive posts, which are completed within the Trust.

2.0 SCOPE AND DEFINITIONS

This procedure applies to all Trust employees, prospective employees and people either on paid or non paid voluntary work placement agreements.

Although not explicitly covered by this procedure, the principles established should also be applied to external organisations providing services to the Trust or its patients/clients e.g. external Contractors, recruitment Agencies, universities, direct payment workers etc (this list is illustrative only and is not exhaustive).

3.0 PURPOSE OF THIS GUIDANCE

The purpose of this guidance is to:

- Set out the Trust's commitment to the protection of its patients, carers and employees.
- Set out the Trust's commitment in the selection process to focus on a person's abilities, skills, experience and qualifications to do the job applied for, ensuring that the most suitable applicant is selected on the basis of merit and that any criminal or conflict related conviction is not used to debar applicants, unless it is materially relevant to the post applied for.
- Set out the process for risk assessment in the instance of a criminal or conflict related record being disclosed.
- Provide clear guidelines on the management actions in response to the non disclosure of criminal/conflict related convictions for applicants.

4.0 ACCESS NI AND THE LEVEL OF CRIMINAL RECORD CHECK

The Trust is a Registered Body with Accessni who is responsible for providing the disclosure of criminal history information in Northern Ireland to assist employers and other organisations to take safe recruitment decisions. All offers of employment/work placements within the Trust to posts falling within Regulated or non-regulated activity will be subject to an Accessni disclosure to support its decision making process.

The Trust will request an AccessNI Disclosure only where this is considered proportionate and relevant to the particular position. This will be based on a risk assessment of that position and having considered the relevant legislation which determines whether or not a Standard or Enhanced Disclosure is available to the position in question.

Where an AccessNI Disclosure is deemed necessary for a post or position, all applicants will be made aware at the initial recruitment stage that the position may be subject to a Disclosure and that the South Eastern Trust will request the individual being offered the position to undergo an appropriate AccessNI Disclosure check

In line with the Rehabilitation of Offenders (Exceptions)(Northern Ireland) Order 1979 (as amended in 2014), South Eastern Trust will only ask about convictions which are defined as "not protected" for the purposes of obtaining a Standard or Enhanced disclosure.

The Trust undertakes to make every subject of an AccessNI Disclosure aware of the existence of the Code of Practice and this information is clearly detailed on the application form.

5.0 ADVICE TO APPLICANTS AND OPPORTUNITIES TO DISCLOSE

On the applicant's Personal Declaration Form (appendix 1), an opportunity is provided for an applicant to disclose information about any previous convictions, offences or police investigations.

Applicants are clearly advised that disclosure of a conviction does not necessarily debar them from obtaining employment. They are also reminded of the implications if they fail to disclose information, which will normally result in the immediate withdrawal of any offer made.

The Trust ensures confidentiality of information disclosed by applicants at all times. The information will be restricted to those who need to see it as part of the recruitment and selection process and only those authorised to do so.

6.0 THE SELECTION PROCESS

Only after an assessment of all applicants has been completed, and a decision taken as to the best applicant for that particular post, should any criminal record and its relevance to the specific job role be explored and discussed with the applicant post interview stage.

Where information is revealed by disclosure and having gained consent from the applicant; RSSC share the information with the Panel Chairperson or Hiring Manager and if appropriate, the Trust HR Retained Recruitment Team.

The disclosure will generally only provide basic facts such as the name, date of offences and associated sentences. An offence is not an automatic disbar to employment with the Trust, and each case must be carefully considered on its own merits. The Trust is required to weigh up an assessment of an applicant's criminal record against the requirements of the post.

To identify the risks and precautions that could be taken, the Trust will assess the applicants criminal record in relation to the tasks that they will be required to perform and the circumstances in which the work is to be done.

7.0 ASSESSING THE RELEVANCE OF CRIMINAL RECORDS DISCLOSED

The suitability for employment of a person with a criminal record will vary depending on the nature of the job and the details and circumstances of any conviction.

An applicant's criminal record must be assessed through a risk assessment process aimed at ensuring the elimination, as far as is reasonably practicable, of risk to patients/clients and staff whilst providing for the fair treatment of all applicants with a criminal record. This process is undertaken at the pre employment checking stage by RSSC in liaison with the Panel Chairperson / Hiring Manager and advice from HR Retained Recruitment with the Trust, if appropriate.

The Trust considers a range of issues when deciding on the relevance of the offences to particular posts, such as;

- Does the post involve direct contact with vulnerable groups and/or access to sensitive records?
- Does the post involve direct contact with the public?
- What level of supervision will the postholder receive?
- Does the post involve any direct responsibility for finance, or items of value?
- Does the post enable access to drugs?
- Will the nature of the job present any opportunities for the postholder to reoffend in the workplace?

(This list is for illustrative purposes only and is not exhaustive)

This initial assessment will help to determine the relevance of convictions to specific posts e.g. fraud should be considered for posts involving the handling of significant amounts of money and theft in relation to posts involving the handling of stock. Also, violent offences will be relevant to positions involving contact with patients/clients and the public.

8.0 DISCUSSING CRIMINAL RECORDS WITH APPLICANTS ON RECEIPT OF ANI DISCLOSURE

An applicant who has disclosed a conviction which may be relevant to the post applied for should be given an opportunity to discuss the circumstances of the offending behaviour.

Please refer to the HSCNI Managers Guide to Pre-Employment Checks – section entitled ‘Disclosure Information, Access NI Disclosure Certificates’ (Appendix 2).

Information relating to offences will remain confidential and only on a clear ‘*need to know*’ basis. Applicants must be able to feel confident that their criminal record will not be disclosed to others.

All information will be carefully considered and a decision taken on the applicant’s suitability based on a full assessment of any potential risks involved. The decision will be taken by the Panel Chairperson / Hiring Manager in consultation with the Panel and HR Retained Recruitment.

9.0 DEALING WITH ISSUES OF NON DISCLOSURE

The Trust considers that failure by an applicant to declare complete and accurate information about convictions to be a serious breach of trust.

The Trust expects honesty and integrity from all its employees/potential employees/volunteers/work placements as this is an implied term of the contract of employment/engagement. Therefore, an applicant’s honesty and integrity is a key factor that is taken into consideration when determining the suitability of an applicant for employment with the Trust.

When the disclosure certificate is returned and information is contained which reveals new or conflicting information to that which the individual disclosed during the pre-employment checking process, this information will be highlighted by RSSC to the Panel Chairperson / Hiring Manager and will be progressed under the HSCNI Withdrawal of Offer Process (appendix 3)

10.0 EMPLOYING PEOPLE WITH CONFLICT RELATED CONVICTIONS

A conviction arising from the conflict in Northern Ireland should not debar an applicant from obtaining employment, unless the conviction is manifestly incompatible with the job.

In the majority of cases, conflict related convictions would not be of relevance to an employment position. 'The Employers Guidance on Recruiting People with Conflict Related Convictions', developed by the Office of the First Minister & Deputy First Minister, advises that any conviction for a conflict related offence that pre- dates the Good Friday Agreement (April 1998) should not normally be considered relevant.

HOW DO I DETERMINE IF A 'CONFLICT RELATED' CONVICTION IS MATERIALLY RELEVANT?

When seeking to determine whether a conviction is materially relevant panels should consider the following:

- The nature of conviction and its relevance to the job in question.
- The seriousness of an offence is not in itself enough to make a conviction materially relevant.
- Is the conviction manifestly incompatible with the position in question? It will only be in very exceptional circumstances that a conviction will be relevant.
- Are there any risks to the Trust, patients/clients and employees? In most instances there is very little risk involved in employing an ex-prisoner.
- When did the offence occur? Unspent convictions may have occurred a long time ago.
- For many people with conflict related convictions, they would not have been imprisoned had it not been for the onset of the troubles.

WHAT IF AN APPLICANT'S 'CONFLICT RELATED' CONVICTION HAD IMPACTED ON THE LOCAL COMMUNITY IN WHICH MY ORGANISATION IS BASED?

Given the often localised nature of conflict in Northern Ireland, it is recognised that this scenario may arise.

The following should be considered:

- Is the individual's conviction and past likely to be well known to patients/clients and staff?
- Is it possible to offer a similar position in another geographical area or work location?
- While a conflict related conviction may have impacted on a particular geographical area, it may have occurred some time ago.

As with applicants with a criminal conviction, each applicant should be considered on his/her merits and therefore the same process as outlined earlier in this document applies.

11.0 OVERSEAS CRIMINAL RECORDS CHECKS

Only for specified countries (refer to ACNI website) is Access NI able to obtain overseas criminal records or other relevant information as part of the Disclosure service. If the Trust is recruiting from overseas or a prospective employee has lived overseas for a period of time, then the Access NI check may not provide a complete picture of any criminal record history they may have.

The Trust must therefore consider and evaluate the risks involved in these circumstances. Applicants falling into this category include UK residents, whether British nationals or otherwise, with recent periods of overseas residence. Also, in this category are those with little or no previous UK residence.

It may be difficult to obtain satisfactory evidence of identity in respect of such applicants. It may also be of limited value to ask for a disclosure in respect of persons with very substantial gaps in their UK residence; or, of individuals with little or no previous residence in the UK. The Police National Computer (PNC) contains a limited number of overseas convictions but this data is not comprehensive.

The Trust may seek those applicants with overseas residence to apply for the equivalent of a disclosure, if available. However, a substantial period of overseas residence should not preclude the Trust from considering applicants with such backgrounds.

Further guidance about the availability of criminal record checks in foreign countries may be obtained directly from the Accessni website.

12.0 MANAGEMENT OF DISCLOSURE INFORMATION FROM ACCESS NI

As an organisation using Accessni vetting information to help assess the suitability of applicants for positions of trust, the Trust complies fully with Access NI's Code of Practice regarding the correct handling, use, storage, retention and disposal of Disclosure Applications and Information.

The Trust also complies fully with its obligations under the Data Protection Act 2018 (General Data Protection Regulations) and other relevant legislation relating to the safe handling, storage, retention and disposal of this information.

Storage and Access

Disclosure information is kept securely in lockable, non portable storage containers with access strictly controlled and limited to those who are entitled to see it as part of their duties.

Handling

In accordance with section 124 of the Police Act 1997, Disclosure information is only passed to those who are authorised to receive it in the course of their duties.

Usage

Disclosure Information is only used for the specific purpose for which it was requested and for which it was requested and for which the applicant's full consent has been given.

Retention

Once a recruitment (or other relevant, e.g., regulatory or for licensing purposes) decision has been taken, the Trust does not keep disclosure information for any longer than is necessary. Information will not be retained but destroyed once a decision, recruitment or otherwise has been made. The Trust will not keep any photocopy or other image of the disclosure or any other representation of the contents of a disclosure or any other relevant non-conviction information supplied by the police but not included on the disclosure.

However, we may keep a copy of the 'Pro-forma for sharing information', which is contained within the HSC Withdrawal of Offers Process (appendix 3) indicating that the offer of employment is to proceed.

Disposal

Once the retention period has elapsed, we will ensure that any disclosure information is immediately destroyed by secure means, i.e., by shredding, incineration or pulping.

13.0 SIGNATORIES

The Trust has an appointed Lead Signatory who is AccessNi's principal point of contact on all matters connected with the registration and use of the Disclosure Service. The Lead Signatory has appointed a number of Counter Signatories who will be responsible for ensuring the principals of this procedure are adhered to at all times. Each Signatory should familiarise themselves with the Accessni Code of Practice and keep apprised of any updates / amendments, either via correspondence directly circulated by Access NI or as advised by the Lead Signatory.

Conclusion

This procedure is intended to cover all situations which involve AccessNi Disclosure and the impact and safe handling of information received. It sets out the obligations which must be met by the Trust.

Any variations to the procedure should be referred to either the Human Resources Department or the Trust Lead Signatory.

The procedure will be reviewed every two years and more regularly if necessary, to take account of legislative and best practice changes.



**APPENDIX1
APPLICANT PERSONAL DECLARATION FORM**

CONDITIONAL OFFER – PERSONAL DECLARATION

This Personal Declaration Form is one part of the pre-employment checks referenced in your conditional offer letter. It must be completed accurately, in full and returned to the Recruitment & Selection Team as detailed in your conditional offer letter

Please complete each section fully and accurately as failure to do so may lead to your offer of employment being withdrawn / dismissal should you take up post. Continue on separate sheet if necessary.

Name	
Address	
Contact Telephone Number	
Position Applied For	
Recruiter Name	

1. SICKNESS ABSENCE

Whether you have been employed or not, please state all periods of sickness over the past 3 years up to the date of completing this form:

Nature of Sickness	Date from	Date to	No of Calendar Days	If working were you absent from work	Did you consult a Doctor

The HSC has a strong emphasis on your ability to attend work to provide regular and reliable service and will be assessing the information you provide in this context as part of the pre-employment checks.

If there are any mitigating circumstances you wish to comment on, for example, were any of the absences pregnancy related, disability related, or perhaps due to a one off medical problem which is now resolved, or even a one off incident which impacted on your health for a period such as a Road Traffic Accident, please add your comments to the box on the next page. You must provide full and accurate information in response to this question. You should be aware that this information forms part of the conditional offer process and any information you provide will be shared with the organisation offering you this employment. This may include the manager responsible for the position you have been offered; the organisations Human Resources Department and Occupational Health Department where it is considered necessary.

Please continue on separate sheet if necessary.

Have you ever had to resign, retire or been terminated / dismissed from a post because of ill health? **Yes / No***

2. DISABILITY

The Disability Discrimination Act 1995 defines disability as a physical or mental impairment which has a substantial and long term effect on a person's ability to carry out normal day to day activities. Normal day to day activities are outlined in the Act as those activities which affect one of the following broad categories of capacity; mobility; manual dexterity; physical co-ordination; continence; ability to lift, carry or otherwise move everyday objects; speech, hearing or eyesight; memory or ability to concentrate, learn or understand; or perception of risk of physical danger.

If you have a disability in line with this definition and require reasonable adjustment for the job being offered, the Trust/Organisation would be keen to discuss this with you to agree what can be accommodated. Having read this definition do you require a reasonable adjustment for reasons related to a disability to allow you to undertake the duties of this post? **Yes / No***

If you have answered yes to the above question on disability, a meeting will be arranged with the manager to discuss the reasonable adjustments required. To inform this discussion please provide details below of the reasonable adjustments required so that this may be fully considered.

3. CURRENT EMPLOYMENT & REFEREE DETAILS

	Yes	No
Have you changed employer since completing your application form?		
Have you changed line manager since completing your application form?		
Have you changed job (even within the same employment) since completing your application form?		

If you answered yes to any of the questions above please provide updated details below:

Date of Leaving previous job		Date commenced in current job	
Reason for Leaving			
Name Of Current Employer		Address	
Name of New Referee <i>(must be in a line manager capacity)</i>			
Occupation			
Work Email			
Tel. No (landline)		Mobile No	

If you have previously worked within the HSC/NHS, we will also contact your previous Trust/Organisation Manager for a reference.

4. GOOD STANDING / SUITABILITY FOR THE POST

You must be of good standing to undertake this post and in this regard you are asked to answer the following questions: Have you any live disciplinary sanctions imposed against you? **Yes / No***

If yes, what is the sanction e.g. final warning; formal or informal warning; downgrading etc.	
Please state the organisation that imposed this sanction.	
Please provide the date this sanction was imposed.	
Please provide the date this sanction will expire.	
Please state the position you held when this sanction was imposed.	
Please state briefly the charges which led to this sanction being imposed.	

5. CRIMINAL RECORD

The HSC is committed to equality of opportunity for all applicants, including those with criminal convictions. Whilst the disclosure of information does not automatically debar an individual from employment, it is essential that all convictions are disclosed to allow the Trust/Organisation to adequately consider their relevance to the post in question.

Below you are asked to disclose any criminal convictions or offences. The post to which you have applied falls within the definition of 'excepted employment' as provided by the **Rehabilitation of Offenders (Exceptions) (NI) Order 1979** which provides additional protection to vulnerable groups and applies to all posts within the Health and Social Care Services. Under this Order, no conviction is ever regarded as spent. The only exception to this is protected disclosures as detailed in the Protection of Freedoms Bill 2012.

Therefore you **MUST** disclose information about ALL cautions and convictions, even where they are ordinarily considered as "spent" (other than protected disclosures). You should also include any pending charges. **For motoring offences see next section.** In this regard please answer the following questions.

	Yes	No
Have you ever been convicted, charged, prosecuted, cautioned or bound over for any offence, no matter how minor?		
Are you currently the subject of a police investigation or do you have any prosecutions pending?		

*If you have answered yes to any of the above questions, please provide details below. It is important that you list ALL charges, prosecutions, convictions, cautions, bind-over orders (other than protected disclosures) – **even if they happened a long time ago.***

Date of conviction/charge/ Prosecution/caution/bind over	Offence	Penalty/Sentence received

6. OTHER OFFENCES

Here you should state offences which are not criminal offences but must be declared to ensure the Trust/Organisation has full information of any offences you have, or have been charged with. For example minor motoring offences which you have not attended court over such as fixed penalty notices should be listed below.

Date of Offence	Offence	Penalty received

7. SAFEGUARDING VULNERABLE GROUPS (NI) ORDER 2007 AS AMENDED BY THE PROTECTION OF FREEDOMS BILL 2012

Under the Safeguarding Vulnerable Groups (NI) Order 2007 as amended by the Protection of Freedoms Bill, the Trust/Organisation must not employ any individual in regulated activity who is barred from such activity.

	Yes	No
Are you currently barred from Regulated Activity by the Disclosure & Barring Service?		
Are you currently referred for investigation to the Disclosure & Barring Service?		

8. PROFESSIONAL REGISTRATION WITH REGULATORY BODY

If the post that you have been offered requires professional registration with a regulatory body please answer the following question

	Yes	No
Are you currently the subject of a referral to, or an investigation by, your regulatory body?		
If yes, please give details		

9. INTERNAL EMPLOYEE INFORMATION FOR PAYROLL PURPOSES

You **ONLY** need to complete this section if you are currently employed (*not engaged via a recruitment agency*) in the **same** HSC Trust / Organisation, including both substantive OR Bank posts, in which you are accepting this post. Otherwise please proceed to the declaration **section below**.

To ensure you are paid correctly, it is **ESSENTIAL** that you provide full and correct information to the following:

Post	8-digit Staff Number	How are you paid for this role? Monthly / Fortnightly / Weekly	Do you intend to continue working in this post after you take up your new post?
1. Your main employment	— — — — — — — —		Yes / No*
2.	— — — — — — — —		Yes / No*
3.	— — — — — — — —		Yes / No*
4.	— — — — — — — —		Yes / No*
5.	— — — — — — — —		Yes / No*
6.	— — — — — — — —		Yes / No*

Please note that you *may* be assigned a new Staff Number for your new post, depending on your answers to the above questions.

10. DECLARATION

I _____ (*print name*) confirm that the information provided in the Personal Declaration above is complete and accurate. I understand that the information I have provided will now be used as part of the pre-employment check process and in essence forms part of my application to the Trust/Organisation.

I am aware that if I have provided wrong information / failed to provide full and accurate information the offer of employment may be withdrawn or I may be dismissed if I take up this appointment.

I understand that the information provided will be used to make a judgement about my suitability for employment in terms of the key areas on which I have provided information. I understand that if these checks are not satisfactory this offer of employment may be withdrawn.

I understand that this information along with my application will be submitted to and processed by the Regional Recruitment & Selection Shared Service Centre on behalf of the HSC Trust/Organisation to which I am applying but will also be accessible to that Trust/Organisation to facilitate the full Recruitment Process and for use in the Employment Relationship both electronically and manually.

I consent to the information I have provided being shared with the Manager of this post, Human Resources and / or Occupational Health and used for the purposes of fully considering my suitability for the post I have been offered.

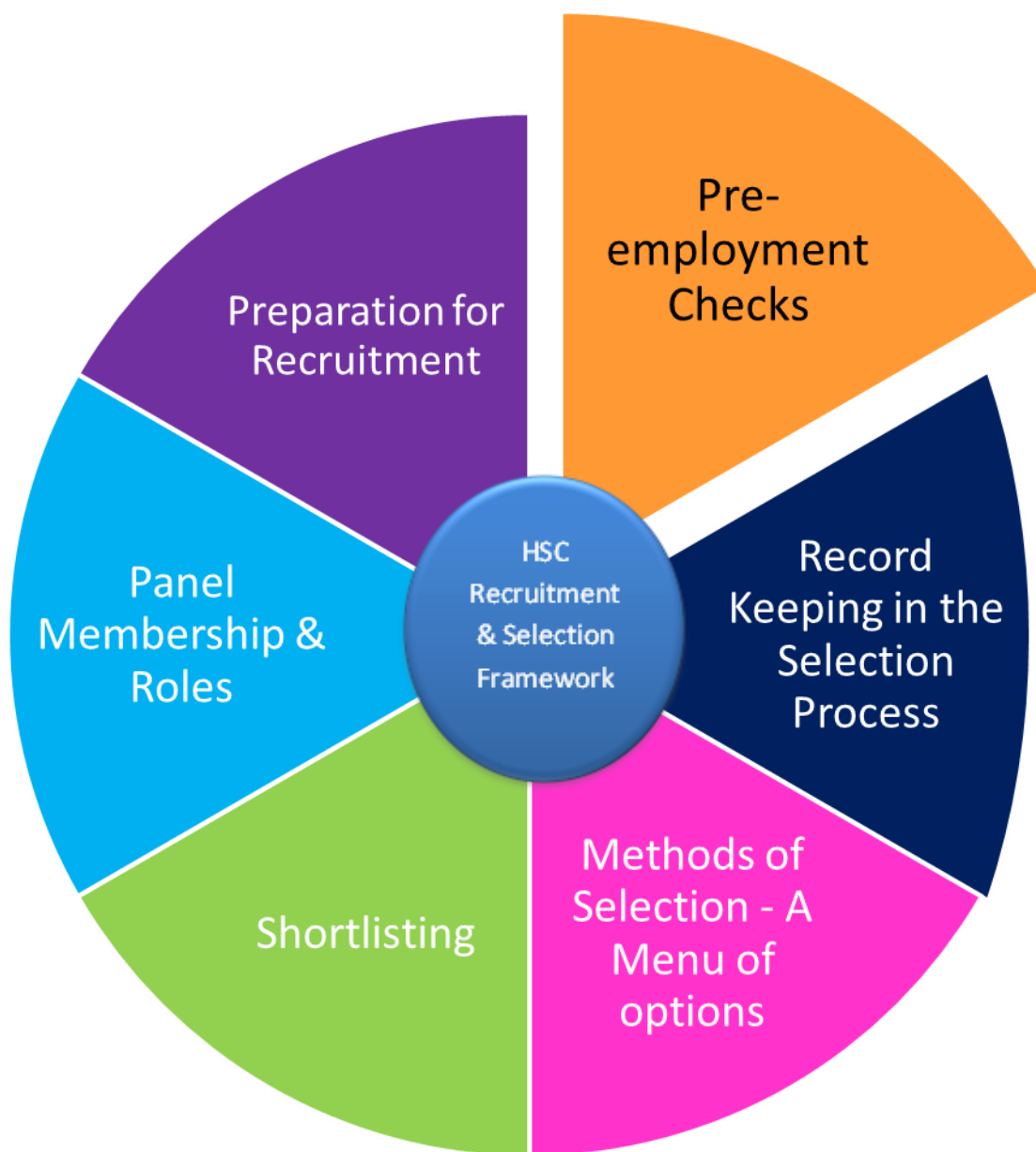
I agree to the Regional Recruitment & Selection Shared Service Centre on behalf of the HSC Trust/Organisation to which I am applying and / or officers of that HSC Trust/Organisation making necessary enquiries during the recruitment and selection process.

I understand all information will be used in accordance with the Data Protection Act 1998.

Signed _____ **Date** _____

Print Name _____

Managers Guide to Pre-Employment Checks



Introduction

Following the selection process, the successful applicant (s) will receive a letter of conditional offer. Whilst all appointments to the Health & Social Care service (HSC) are subject to satisfactory pre-employment checks, special arrangements exist for staff currently employed in the HSC regarding the processing of the checks.

Although the principles remain the same, managers should be aware there may be nuances to be applied if the appointee is an existing member of staff.

The Recruitment Shared Service Centre (RSSC) is responsible for undertaking the pre-employment checks which will include:

- i Identity Check
- ii Eligibility to Work in the UK
- iii References
- iv Disclosure Certificates & Personal Declarations
- v Occupational Health Assessments
- vi Qualification & Professional Registration (*where appropriate*)
- vii Driving Licence (*where appropriate*)

Should any issues of concern arise during the checks process, the RSSC will collate the information and share this with the Manager for their decision. Typically areas requiring consideration relate to References, Sickness Absence and Disclosures; however failure to satisfactorily complete any of the checks will lead to the withdrawal of a conditional offer of employment.

The aim of this guide is to provide broad guidance based on common issues which arise. Managers may also seek advice from their local Human Resources Department.

REFERENCES

References are a valuable tool in determining the suitability of an applicant. They provide information on the reliability, character and experience of an individual as witnessed by a former employer, education authority or other suitable professional. While there is no legal requirement for employers to provide references about people who are or were in their employment, HSC Trusts/organisations have a duty of care to both patients and staff to ensure that all reasonable checks are undertaken to ascertain a person's suitability for any given role. For this reason all appointments to the HSC are made subject to satisfactory references¹ being received.

Data protection laws have had a significant impact on the type of information employers are likely to agree to provide in response to a reference request. Employers have a duty of care to all current and former employees to ensure that any information they share about them is a fair and true reflection of their performance and suitability. References should not include personal opinions or views which may be regarded as subjective.

References should never be used as the sole grounds for assessing an applicant's suitability for a post. Any decision to appoint should be made based on the wide range of information gathered as part of the selection process.

Obtaining the Reference

The RSSC will be responsible for collecting references as part of the conditional offer process. Reference requests will be made to those nominated on the application form unless RSSC are advised otherwise. Should those nominated not satisfy the requirement for at least one reference to be the current or most recent line manager, RSSC will contact the successful applicant to request a further nomination. This would also occur if the appointee is not currently a HSC / NHS employee but has had previous such experience.

Assessing the Reference

On receipt References will be reviewed by RSSC staff and cross referenced with the Application form / Personal Declaration form.

¹ Normally two references will be obtained including one from the current or most recent line manager. Where an appointee is not currently working in the HSC / NHS but has previous work experience in either setting a reference should always be obtained from the most recent of such employment.

- Any information not matching the Application / Personal Declaration form; sickness records demonstrating: three episodes of absence within a 12 month rolling period; or Two periods of absence totalling 10 working days or 2 calendar weeks within a 12 month rolling period; or one period of 10 days within a 12 month rolling period; or one period of 20 days or more; or any question answered in the negative will be a trigger for the RSSC to share the reference with the manager for further consideration.

If there are no issues of discrepancy or concern the RSSC will sign off on the reference without further recourse to the panel chairperson / hiring manager. If however there are any issues which are a cause for concern, RSSC will share the reference for further review / decision as to how the manager wishes to proceed. As this could lead to a withdrawal of offer, the agreed process for withdrawal of conditional offers will be applied.

When a reference is referred to a Manager it is important that they consider the issues raised in the context of the overall pre-employment check process. Managers should ensure that any decisions made are based on factual information and not opinion.

Where a referee responds in the negative to any question, the RSSC will, prior to referral, contact the referee to explore this further. Any information provided will be shared with the Panel Chair / Recruiting manager for consideration in full. This may include:

- Whether or not all information has been fully declared – if not is there an issue of honesty and integrity?
- Whether any of the information provided would impact on the suitability of the candidate for appointment to the post
- Whether any of the information provided suggests the candidate would not be in a position to provide regular and reliable service.

Further contact with the referee may be required to obtain an overview of the individual's performance, reliability or general suitability for the post.

Sickness Absence

Sickness absence is frequently an issue which requires consideration. All HSC employers operate a strict sickness absence policy for staff so it is important to ensure that those being appointed have an acceptable sickness absence record. Essentially in this area the Panel Chair / Recruiting Manager is determining whether or not the candidate is in a position to provide regular and reliable service. Here are some factors to consider:

1. Has the applicant disclosed a full and accurate account of their sickness history?

Where there are any discrepancies / omissions this will initially be explored with the candidate / referee by RSSC staff providing the opportunity to explain any non-disclosure. This information will be shared with the Manager other than in instances where the discrepancy is a clear oversight and easily explained.

2. Are any of the absences disability related?

If this is possible / declared, it is advisable to discuss the sickness absence with the candidate to understand whether or not reasonable adjustments are required and the perspective of the candidate to provide regular and reliable service. This is likely to require further discussion with Occupational Health, particularly in relation to potential reasonable adjustments required. It is also advisable to consult your local HR Department for guidance.

3. Are any of the absences pregnancy related?

Sickness absences due to maternity leave or pregnancy related illness should not be counted for purposes of considering the sickness absence record.

4. What is the level / pattern of sickness absence?

The level, pattern and nature of the sickness absences during the 2 year period requested should be considered in line with the employing authority's 'triggers'. Decisions not to appoint due to absence records need to be in line with the standards applied from the Trust/HSC Organisation's Managing Attendance protocol to existing staff.

Recruiting managers should carefully consider the extent of any such breaches with particular consideration given to the level of absence in the most recent 12

month period and whether the triggers have been breached in more than one of the two years declared.

Example 1- An applicant may have had a concerning level of sickness absence in one year but the next year shows an improvement in attendance. In such cases the Recruiting Manager can look favourably on this verified improvement.

Example 2 – An applicant may have had a concerning pattern of sickness across the period. In such cases it is reasonable for the Recruiting Manager to consider whether this individual is likely to be able to provide regular and reliable service. The Recruiting Manager may wish to meet with the applicant to discuss his/her level of absence before reaching a decision on whether or not to withdraw the conditional offer. During the meeting the Recruiting Manager should establish if there are any exceptional or mitigating circumstances and consider any assurances of improvement which the applicant may provide.

5. What did Occupational Health say?

Any advice from the Occupational Health assessment, in particular any recommendations made for reasonable adjustments in the instance of disability or any restrictions which the appointee may have.

Disclosure Information

Personal Declarations

All candidates under conditional offer are asked to complete a Personal Declaration. Some of this is information which used to be sought on the application form and includes details of:

- Sickness Absences
- Disability Status / Reasonable adjustments required
- Disciplinary Record
- Criminal Record / Any other Offences
- Professional Registration status

The candidate is expected to provide full and accurate responses to all questions. Any issue of discrepancy / missing information such as unexplained gaps in employment or reasons for leaving previous employment would be a 'trigger' for review. RSSC staff will seek any necessary clarification and highlight any such matters to the Panel Chair / Recruiting Manager.

Managers should consider the information and determine whether or not there are any issues which would call into question the suitability of the candidate for appointment:

- Has all the information been declared or is there an issue of honesty and integrity?
- Is there a criminal record declared which is materially relevant to the post in question?
- Is there a sickness absence record which would call into question the candidates ability to provide regular and reliable service?
- Is any reasonable adjustment required for reasons of a disability?

A discussion may be required to with the candidate to clarify and fully consider any or all of the above questions.

Disclosure Information

Access NI Disclosure Certificates

If a post is eligible for an Access NI check an application will be made. When a disclosure is made, RSSC will seek a copy of the certificate as issued and cross reference with the Personal Declaration form. In all instances any disclosure of criminal records will be shared with the Panel Chair / Recruiting Manager for a decision on the suitability of the candidate.

The HSC is committed to the equality of opportunity for all applicants, including those with criminal convictions. While the disclosure of information does not automatically debar an individual from employment, it is essential that all convictions are disclosed and duly considered.

When it has been identified through pre-employment checks that a candidate with a conditional offer of employment has a criminal conviction, a meeting should be set up by the Panel Chair / Recruiting Manager to facilitate a discussion about the disclosure. Prior to the meeting the Panel Chair / Recruiting Manager should ensure that they have all the necessary paperwork available to refer to, i.e. Application Form, Personal Declaration Form and Access NI Disclosure Certificate.

Before the meeting begins the Panel Chair / Recruiting Manager should review all of the documentation and consider if the candidate declared any / all offences on their Personal Declaration Form. If any offence was not declared as required this is treated as a failure to disclose. The candidate should be asked to explain their specific reasons why they have not fully disclosed all of the relevant information and this should be taken into consideration when making the final decision on whether to proceed with the offer of employment.

Please remember it is not sufficient for a candidate to say that they did not realise they had to disclose a conviction. The instruction to applicants is clear that all convictions must be declared no matter how long ago they occurred or how minor they were.

If meeting the candidate, the Panel Chair / Recruiting Manager should explain the purpose of the meeting at the outset and ensure there is clarity about the requirement to disclose all information albeit that such does not debar the candidate from appointment unless it is materially relevant to the post which they are under a conditional offer for.

Key Points to Consider During / Following Meeting

- Is the caution or conviction a one-off or one of several? Is it old or recent? Was it committed when the person was a juvenile or adult?

- Is the type of offence materially relevant to the job?
- Is the behaviour that constituted the offence(s) a particular cause for concern (e.g. for sexual offences, was it a teenager sleeping with his under aged girlfriend or something more serious; for drug offences, was it possession of a small amount of cannabis for own use or possession of a class A drug with intent to supply)?
- Is the context behind that behaviour a cause for concern (e.g. was the conviction for violence a result of someone in great fear hitting an assailant or a premeditated violent attack)?
- Were there particular circumstances at the time that led to the offending behaviour (e.g. dysfunctional family, acutely strained financial circumstances) which have now changed?
- What evidence is there for change (e.g. job, family, mortgage)?
- What is the person's attitude to the offence or offences? Is it one of remorse? Do they take responsibility for it, recognise the harm they caused?
- Has the person had sustainable employment since, shown good character?

If the answers to these questions indicate that the offences are not relevant and/ or the applicant has put their past behind them, then the presumption may be that the applicant is not a risk.

Disclosure confirms information provided by applicant	Risk Assessment undertaken by Retained HR and Chairperson/ Lead Recruiter regarding relevance of convictions to the job applied for. Decide if suitable/not suitable
Disclosure reveals new information about a criminal record i.e. applicant disclosed some but not all convictions OR Did not disclose any convictions	1.Candidate confirms information is correct on the disclosure but the discrepancy was not serious or the applicant was able to provide a satisfactory explanation as to their failure to disclose – confirm appointment Candidate confirms information is correct on the disclosure but record is too serious or there is more than one discrepancy and candidate was not able to provide a satisfactory explanation as to their failure to disclose – withdraw offer of employment



WITHDRAWAL OF OFFERS PROCESS

Document ID	023
Author	SRIF Operational Group
Approved by	Nicola O'Neill / RSSC Management Team
Date Approved for Use	22.05.2018
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1.0 PURPOSE OF PROCESS

- 1.1 The Recruitment & Selection process incorporates a conditional offer process which is dependent on the satisfactory completion of pre-employment checks.
- 1.2 During the conditional offer stage of the Recruitment & Selection process circumstances may arise which result in the need for the conditional offer to be withdrawn.
- 1.3 In most circumstances a withdrawal of a conditional offer will occur due to unsatisfactory pre-employment checks upon which the conditional offer is predicated. However there can be other circumstances arising which might include:
 - 1.3.1 A change in organisational requirement which could not have reasonably been foreseen and cannot be managed in any other way;
 - 1.3.2 An administrative error is identified which cannot reasonably be managed in any other way.
- 1.4 This process sets out the procedure to be followed on such occasions.

2.0 SCOPE OF PROCESS

- 2.1 This process will be used for all situations where the withdrawal of a conditional offer of employment becomes necessary.

3.0 PROCESS STEPS

Withdrawal of a Conditional Offer due to Unsatisfactory Pre-employment checks

- 3.1 If any one of the pre-employment checks are not satisfactory consideration will be given as to whether or not the conditional offer should be withdrawn. Consideration may also be given to the withdrawal of offer in the event of unacceptable delays during the conditional offer process. All decisions relating to withdrawal will be the responsibility of the employing authority.

- 3.2 The Recruitment & Selection Shared Service Centre (RSSC) will be responsible for identifying any potentially unsatisfactory checks, gathering all the necessary information and ensuring that the full details are provided to the employing authority to support robust decision making.
- 3.3 The following ‘triggers’ would result in the RSSC identifying potentially unsatisfactory checks:

Check	Trigger for identifying potentially unsatisfactory checks
Unacceptable delay during conditional offer process	Delay by candidate to provide conditional offer details within timeframe stated on correspondence
Application / Personal Declaration Form	Any issue of discrepancy / missing information such as unexplained gaps in employment or reasons for leaving previous employment.
ID / Proof of Address	Where copies ² of ID / Proof of address documents do not match to the Application form without appropriate explanation.
Right to Work in the UK	Where an appointee cannot provide documents demonstrating their automatic / continuous right to work in the UK.
Qualifications / Driving Licence / Professional Registration	Where an appointee is unable to present the necessary qualifications and / or Professional Registration. Any restrictions or conditions on professional registration.

¹ Original ID Documents are typically checked directly by the employing authority

Check	Trigger for identifying potentially unsatisfactory checks
References	<p>References will be cross referenced with the Application form and Personal Declaration form.</p> <p>Any information not matching the application / personal declaration form; or any information on the reference which is contained in the regionally agreed 'poor reference' guide such as sickness record; or any question answered in the negative.</p>
Access NI / Criminal Record Check	<p>Where the ANI or Personal Declaration declare information on investigations, cautions or convictions. Any failure to declare information on the Personal Declaration will be highlighted.</p>
Alert List Checks	<p>Where the appointee appears on the Alert list information will be sought.</p>
Occupational Health	<p>Any information shared by Occupational Health regarding reasonable adjustments or restrictions.</p> <p>If the candidate is deemed unfit or fails to attend Occupational Health on more than 2 occasions.</p>

3.4 When any of the above 'triggers' are invoked, the recruiting officer in RSSC will complete the pro-forma at Appendix 1 and forward this with all pre-employment checks information to the Manager asking them to consider and advise of their decision. All information will be transferred to the manager by email using a password protected ZIP folder. The password will be the related requisition number.

3.5 The recruiting officer in RSSC should simultaneously write to the candidate advising that an element / elements of their pre-employment checks require to be reviewed and considered by the line manager. A standard communication for this purpose may be seen at Appendix 2.

3.6 The manager in considering the pre-employment check information should contact the candidate to discuss the information presented and

take account of any mitigating circumstances. A face to face meeting may be necessary. This will be determined at the manager's discretion.

- 3.7 If the manager is considering withdrawal of the offer, he / she MUST contact their local HR Department for further advice. NIAS & Western Trust Managers must consult HR in ALL instances.
- 3.8 The rationale for all decisions whether to proceed or withdraw the offer must be clearly documented on the pro-forma at Appendix 1 and returned to the recruiting officer in RSSC for onward progression.
- 3.9 In the event of a withdrawal of offer, the recruiting officer in RSSC should raise this with their Team Leader who will initially contact the candidate by telephone. This will be followed up in writing using the standard communication seen at Appendix 3. The recruiter should notify OH if the Pre-employment Assessment notification has been issued and still outstanding with OH.
- 3.10 Candidates who have their conditional offer withdrawn due to unsatisfactory checks will have a right of appeal as detailed in section 4 of this document.
- 3.11 RSSC will observe a 7 working day 'stand still' period. If an appeal is not received by the 8th working day following issue of the outcome letter RSSC will progress with next steps to filling the post. If an appeal is received during the 'stand still' period, RSSC will process to the relevant employing organisation as detailed in section 4 and await further instruction regarding the next steps to filling the post. RSSC will only take instruction from their nominated contacts in Retained Recruitment in this regard.

A change in organisational requirement which could not have reasonably been foreseen and cannot be managed in any other way;

- 3.12 Where the recruiting organisation has a change in circumstances, the Manager should discuss the situation with Retained Recruitment in the first instance.

- 3.13 RSSC will only take instruction from their nominated contacts in Retained Recruitment.
- 3.14 Where Retained Recruitment provide an instruction to withdraw an offer, RSSC will issue the standard communication seen at Appendix 5.

An administrative error is identified which cannot reasonably be managed in any other way.

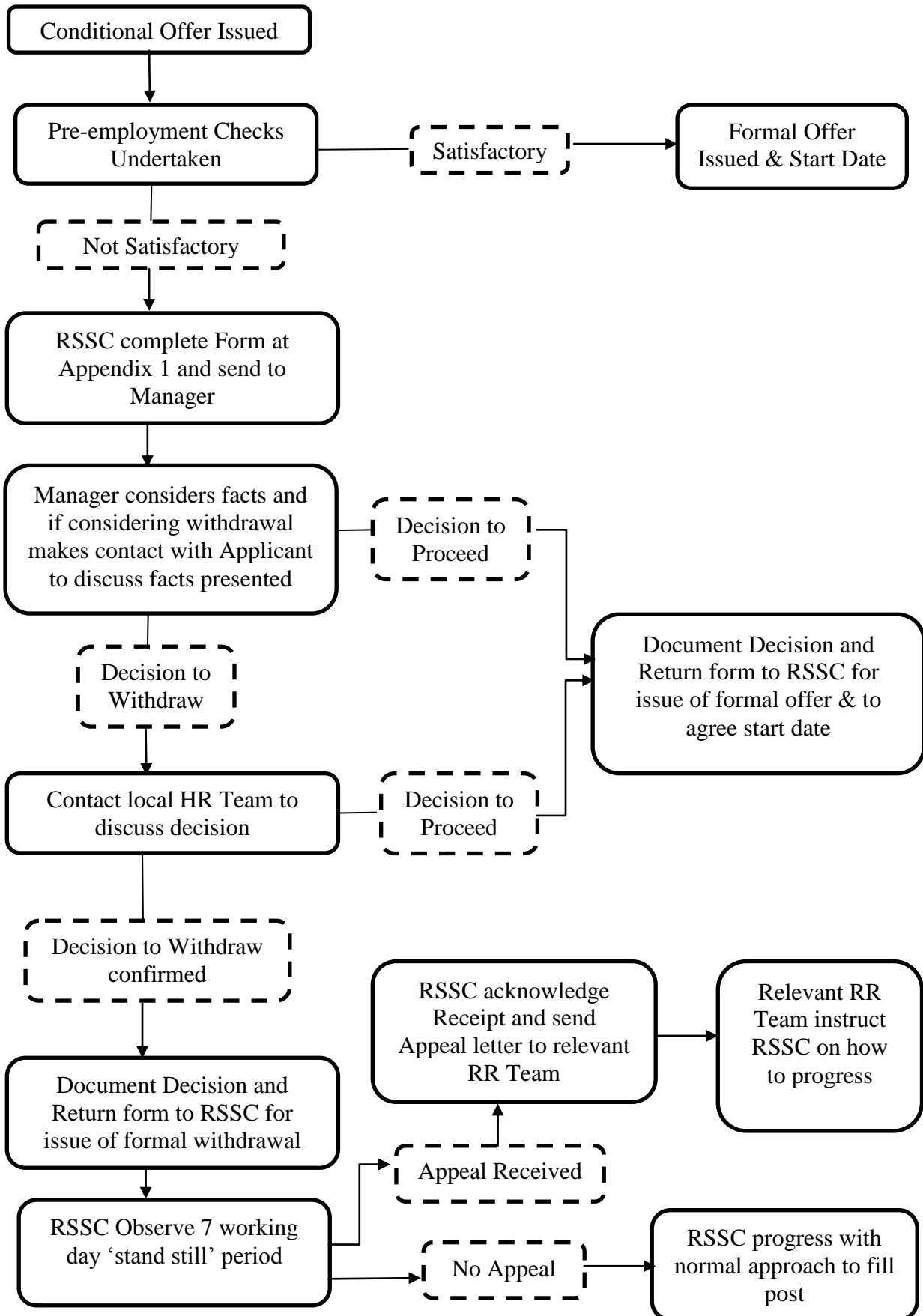
- 3.15 In the event of an administrative process being identified within RSSC, the Team Leader should initially discuss with their Service Delivery Manager to consider the options available.
- 3.15 If the only options available are to withdraw the conditional offer, this should be discussed by the SDM and the key contact in Retained Recruitment for agreement on the way forward.

4.0 RIGHT OF APPEAL

- 4.1 If the candidate does not agree with the withdrawal of offer decision, they will have a right of appeal. Such must be submitted to recruitment.ssc@hscni.net in writing within 7 working days of the date of the letter containing the withdrawal decision, clearly stating the grounds of appeal³.
- 4.2 On receipt of an appeal letter, the Central Team Officer who monitors recruitment.ssc@hscni.net will forward the appeal to the relevant RSSC Team Lead (see template at Appendix 4.0) RSSC will acknowledge receipt (see template at Appendix 4.1) and forward this to the nominated contact in the relevant Retained Recruitment Team including grounds of withdrawal (see Appendix 6). Retained Recruitment Teams will deal appropriately within the Trust and will be responsible for issuing a substantive response as well as instructing RSSC on how to proceed with the related post.
- 4.3 Beyond this there will be no further recourse for candidates who remain dissatisfied. This does not affect the individual's statutory rights.
- 4.4 All records and documentation associated with the complaint will be retained on the relevant Recruitment file within the RSSC.

² An appeal of the decision must state why the candidate believes the decision is not justified.

FLOW CHART



Appendix 1 – Pro-forma for Sharing Information

The undernoted is currently under conditional offer for the post stated. In progressing the pre-employment checks not all are fully satisfactory and for this reason, the checks are being referred to you as the line manager for further consideration.

Please remember that all information is shared in strict confidence. You should not discuss this information with anyone other than those directly involved in this process and / or your local Human Resources Department.

NB - NIAS & Western Trust Managers must consult HR in ALL instances before returning this form to RSSC.

Section 1 – Candidate / Post Details

Candidate Name	
Contact Telephone Number	
Contact Email	
Post Under Conditional Offer	
Requisition No	

Section 2 – Pre-employment Checks Information

The following points are highlighted to you for consideration. All related documents are appended. It is recommended that you speak to the candidate about the issues of concern. In the event that you are considering a withdrawal of offer you **MUST** speak to your local Human Resources Department

Check	Points for Consideration by Manager
Application / Personal Declaration Form	
ID / Proof of Address	
Right to Work in the UK	

Section 1 – Candidate / Post Details

Check	Points for Consideration by Manager
Qualifications / Professional Registration	
References	
Access NI / Criminal Record Check	
Alert List Checks	
Occupational Health	

Section 3 – Managers Considerations and Decision

I have spoken to / met with the Candidate to seek mitigating circumstances / information?	Yes		No	
I have decided to (please fill in <i>either A or B</i> below):				
A – Allow the conditional offer of employment to proceed for the following reasons:				
<p><u>WHSCT / NIAS ONLY:</u> In making this decision to allow the conditional offer of employment to proceed, I CONFIRM I have discussed this with my local HR Department.</p>				<p><i>Please Tick to confirm</i></p>

B – Withdraw the conditional offer of employment to proceed for the following reasons:

- (i) Please keep / remove the candidate from the waiting list (**circle as appropriate**)

In making this decision to withdraw this conditional offer of employment, I CONFIRM I have discussed this with my local HR Department.

Please Tick to confirm

I am now requesting that the RSSC progress with my instructions as detailed above.

Print Name	
Signed	
Date	

Appendix 2 – Communication to Applicant to advise Checks have been Referred to Manager

[Name]

[Address]

[Date]

Dear [Name]

I write further to your conditional offer to the post of [Post Title, Band, Org Name] which remains subject to satisfactory pre-employment checks.

In collating the required checks it has become necessary to share the detail of these with [Managers Name], the line manager of this post for consideration. [Name of Manager] may need to contact you as part of this process. In any event, as soon as a decision has been made I will be in contact with you again.

In the meantime I trust this is helpful in keeping you advised.

Yours sincerely,

[Name of Recruitment Officer]

Appendix 3 – Communication to Applicant confirming a Withdrawal of Offer

[Name]

[Address]

[Date]

Dear [Name]

I write further to your conditional offer to the post of [Post Title, Band, Org Name] and my correspondence of [date letter at Appendix 2 was issued].

Unfortunately I must advise that following due consideration of the information collated during your pre-employment checks, it has been decided to withdraw this offer of employment due to the following reasons:

[state reasons]

You have the right to appeal this decision in writing to recruitment.ssc@hscni.net within 7 working days of the date of this letter, clearly stating the grounds of appeal.

Yours sincerely

[Name of Team Lead]

Appendix 4 - Acknowledgement of Appeal

[Name]
[Address]
[Date]

Dear [Name]

I wish to acknowledge receipt of your appeal letter in relation to the decision to withdraw the post of of [Post Title, Band, Org Name].

Your letter of appeal has now been forwarded to the Retained Recruitment Team in [Org Name] for review. An officer from [org name] will be in contact with you to advise of the outcome of your appeal.

In the meantime I trust this is helpful.

Yours sincerely

[Name of Recruitment Officer]

Appendix 5 – Communication to Applicant confirming a Withdrawal of Offer due to Organisational requirement which cannot reasonably be managed

[Name]

[Address]

[Date]

Dear [Name]

I write further to your conditional offer to the post of [Post Title, Band, Org Name].

It is with much regret that I must advise, due to unforeseen circumstances, the [org name] has advised that the above post has had to be withdrawn and is no longer available. As a result the conditional offer issued must be revoked. [if offered from waiting list include – Your name will be reinstated onto the waiting list in your original rank order and if a further opportunity arises matching your preferences within the life cycle of this waiting list we will be in contact again]

I realise this is very disappointing for you however trust you understand this is out of our control.

On behalf of [org name] I apologise for the need to withdraw this conditional offer and any inconvenience this may have caused.

Yours sincerely

[Name of Recruitment Officer]

Appendix 6 –Contact Points in each Organisation for Appeal Letters

Organisation	Email Address
Belfast Trust	Ciaran.McMullan@belfasttrust.hscni.net
Northern Trust	Alistair.McCambridge@northerntrust.hscni.net
Southern Trust	southern.trusthr@southerntrust.hscni.net
South Eastern Trust	HR.RetainedRecruitment@setrust.hscni.net
Western Trust	Staff.checks@westerntrust.hscni.net
NIAS	recruitment@nias.hscni.net
BSO / Regional Orgs	Bso.humanresources@hscni.net
NIBTS	hr@nibts.hscni.net

Revision History				
Revision Number	Description of Revision	Author of Revision	Approved by	Date Revision Approved
001	Communication sent from Central team to Team Lead	Claire Owen		