

Pre-Employment Checks



This month, our experts discuss the importance of pre-employment checks, the implications of not conducting adequate checks, and the current flaws which employers must take into consideration.

Meet the panel



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Conducting pre-employment checks on job applicants (sometimes referred to as 'vetting') is a vital part of the recruitment process. Careless or absent approaches to these checks could easily result in employing the wrong individual, which can often snowball and damage business and morale. Not complying with the correct checks can also risk legal challenge, which may undermine an employer's reputation.



What pre-employment checks are there?

Toni: There are enhanced and basic DBS checks, which are arguably the most popular. Driving license checks, financial checks, identification checks, qualification checks, right to work in the UK, and character reference checks – which I don't think we should put that much stock in.

Why shouldn't we?

Toni: There is no legal requirement for references. People have proved that references don't work in certain environments. But how much stock do we put in references overall anyway, because how honest are people on references?

David: A character reference for employment is usually asked of people who do not have a large amount of experience.

How many references are standard?

Hema: Two of their most recent usually. But if these don't stretch back that far, say only a year, you could go back further, for example to their schools.

Andrew: There is a government suggestion concerning how far back employers should stick to. The suggestions were called the Baseline Personnel Security Standard.

What if an employee is allowed to start working before a reference has been received?

Ruth: As long as an employer states the role is a conditional offer, subject to satisfactory references, they are able to withdraw the offer.

Toni: But even if a reference came back after an employee had started working, I'd absolutely have a conversation with them and say, "You're not right for us." However, if their performance at this point

didn't match up with their bad reference, I'd probably firstly ask them why they thought their reference was so bad.

Hema: Employers need to talk to people, because they could actually have good reason for an absence which has affected their reference.

What are the key points to be aware of in relation to DBS checks?

Gina: Since last June, since DBS changed the way you do them, the check goes to the employee rather than the

employer, and they're now a lot more specific about what they ask you. We see many, many they aren't being accepted because they're not exactly following what they ask for, such as stating whether you work in a child or adult workplace, using correction fluid, going outside the lines, etc.

What are the stages of a DBS check?

Gina: The first stage is sending it in. The second is when it is being checked at a local level, the third and fourth stage is when it is in the police's hands,

where it can be for up to four weeks, and we have known this to happen. Stage five is when it has been completed and the certificate has gone back to the employee. The difficulty now is that the employer has to chase the employee for the certificate.

Toni: If a company is only doing one or two checks, then they can't go directly through DBS and they have to use a processing agent, who will typically charge an administration fee and maybe even a registration fee too. The agent will need some form of identification from the employee – a driving license, a passport, utility bill.

Who should have a DBS check?

Toni: They're now being a lot stricter with who should have enhanced checks, and who shouldn't.

Gina: If someone is intentionally going to be left alone with children, they should. We actually thought that anyone who set foot in this environment would be entitled to have a check, but they are not.

Toni: We had issued with this – we've experienced construction workers, working in a school, who didn't have DBS checks. They wouldn't process a check for them, as there was no

guarantee they'd be left alone with children. Okay, they may not be left alone, but surely the point of this process is to iron out any potential risk?

David: It was the direction the labour government were going in, but when the coalition government came in, they did an about turn on the ISA arrangements.

A big point to make, though, is this balance with data protection. Even if an employee consents to having a standard of enhanced check, unless they're in a regulated role, that is in breach of the data protection regulations.

Scarily, there's no legal

requirement for employers to run these checks on regulated activity staff, it's just something they might want to do as a good, responsible employer. It is expected, but it's not a legal obligation.

What happens if you are self-employed in a regulated environment?

Gina: You can't ask for a check yourself. For example, if you wanted to set up an out of school childcare, but wanted to use a room within the school like a community hall, because

you can't ask for a DBS check, you can't actually be checked. But you can still look after the children.

Toni: What the school can say is that, 'oh, it's not our responsibility.' Then they dissolve all responsibility. Everybody does. If people knew this situation, I don't they'd feel as safe sending their children to school. They're checking people who we know will be fine, but not sifting through those who could be bad.

Gina: By checking yourself, the information you provide is going to come back the same, it's not like you can throw in a lie about yourself. So why can't you check yourself?



How long are these checks valid?

David: They're only as good as the day they're printed.

Gina: If someone goes out and does something five minutes after the certificate is printed, it's invalid.

What happens when a disclosure comes back with convictions on it?

Ruth: We'd advise the employer to meet with the employee to discuss the conviction. They could end up being terminated or dismissed, but it's got to be considered on a case by case basis. It depends on the nature of the disclosure.

What about qualification checks?

Toni: Even though DBS checks are probably the most important form of check, I feel like qualification checks should be equally as important. We ask a lot of job advertisements, but how many genuinely fit the bill? If it's strong enough to put in a job advertisement, it's strong enough to check. It's usually the case that an employer will believe someone has a qualification, then further down the line, there will be performance issues and people won't be able to do their job.

David: A lot of people nowadays lie on their CVs and application forms, it's outrageous.

What about financial checks?

Gina: This will primarily show whether an individual has CCJs or not. Employers shouldn't fully trust this though, as if their fraud or other incident resulted in a prison sentence, they wouldn't have a CCJ and their sentence wouldn't come up.

Andrew: But if a financial check flags up a CCJ or some financial trouble, this may make an employer aware or cautious if an employee is in a position of financial trust.

What about the right to work in the UK?

David: Employers are really unknowing about this, even though it's been in the press for at least five years now and the penalties have doubled to £20,000 per worker, and two years' imprisonment.

Ruth: These checks must be done before someone starts working for you, else it can get very messy. You might be heavily criticised or found liable if you haven't done everything in your power.

Hema: You have to provide the right documents (all on the home office website). You should take photocopies of the documents and sign and date them, so if it was to come into dispute, you wouldn't get penalised. Driving licenses don't feature on the approved lists though, and you should watch out for expiration dates. However, if a visa is due to expire, as long as someone has applied for a new one before it has actually expired, and can prove this, that would be fine.

