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## Complying with Ofsted's EYFS Safeguarding and Welfare Requirements

### Pre-Employment Checks and Referencing

As a childcare provider it is your responsibility to take any and all necessary steps to protect the children within your care. Do you have an appropriate 'Recruitment Policy' in place? You must make sure you maintain the safety and health of the children in your care, in line with the requirements set out by Ofsted and your Local Safeguarding Children Board, one of which is to ensure the suitability of the adults who have contact with the children in your care.

Due to your Ofsted obligations you must ensure your policy is to always conduct appropriate pre-employment checks and that any offers of employment are conditional upon satisfactory completion of specific pre-employment checks appropriate to the job role, which may include criminal conviction screening, medical screening if appropriate, validation of qualifications and/or specific licences, reference checking and checking that the prospective employee has the right to work in the UK.

### Pre-Employment Checks

As a childcare provider/employer you should have a two-tiered approach to pre-employment checks. You are required by law to make sure all of your employees and potential employees are subject to an enhanced CRB check, but as well as that you should also request references from previous employers.

It is the responsibility of all childcare providers to obtain an enhanced criminal records disclosure in respect of every person aged sixteen and over. Prospective employees must be made to disclose any and all personal history relating to: convictions; court orders; cautions; and reprimands and warnings. Any employees who have not yet had their suitability checked through an enhanced criminal records check are not allowed to have unsupervised contact with children.

## After the CRB Check

If an employee fails to achieve appropriate CRB clearance then they are not permitted to work with children, in line with Ofsted's safety and welfare requirements. For example, inappropriate CRB clearance in this instance would be individuals included in the two Independent Safeguarding Authority's "barred lists". If an employee receives CRB clearance you could then offer them a **conditional** offer of employment and request references from previous employees. It is important that this offer is **conditional** as the employee will understand that no offer of employment is guaranteed and you will be under no obligation to continue with the employment if you are unsatisfied with their references.

## Requesting a Reference

As an employer it is important that you have a good understanding of referencing law to make sure that you are complying with best practice. For example, you should adopt a policy of obtaining references for every applicant and not on a selective basis otherwise you may risk claims of discrimination. Also a reference can only be requested with the consent of the applicant so you must make sure that you have permission. The Equality Act 2010 states that questions relating to disabilities and health can only be asked once a conditional offer of employment has been made. As an employer you should be aware that even though it is very common for organisations to provide references, there is no general obligation and therefore your request may be denied. If a former employer does refuse then you should always ask why and document the reasons as it could just be a matter of policy. And finally, if there are any discrepancies the Employment Practices Data Protection Code suggests that you should put the discrepancy to the prospective employee before making your final decision.

## Further Advice

If you would like our support in complying with Ofsted's safety and welfare requirements then please don't hesitate to contact us; [khedley@hasslefreehr.co.uk](mailto:khedley@hasslefreehr.co.uk) for further advice and information.

For clarification of any of the above updates or for advice and guidance on any HR and/or Health and Safety Concerns contact us by emailing [ehedley@hasslefreehr.co.uk](mailto:ehedley@hasslefreehr.co.uk) or by calling 02476 664092.

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