



RECRUITMENT & SELECTION FRAMEWORK

Contents

1.	INTRODUCTION	3
2.	SCOPE	3
3.	PRINCIPLES	3
4.	KEY POINTS	4
5.	WHO MAKES APPOINTMENT DECISIONS	5
	Joint Senior Appointments	5
	Council	5
	Schools	5
	NHS Herefordshire	6
6.	RESPONSIBILITIES OF APPOINTING MANAGERS	6
7.	RESPONSIBILITIES OF HUMAN RESOURCES SERVICES	7
8.	STANDARDS OF GOOD PRACTICE	7
9.	REDEPLOYMENT	8
10.	FIXED TERM APPOINTMENTS	8
11.	SECONDMENTS	8
12.	POLITICALLY RESTRICTED POSTS (Council Staff)	9
13.	TEMPORARY WORKERS	9
14.	APPRENTICESHIPS AND WORK PLACEMENTS	9
15.	EMPLOYING YOUNG PEOPLE	9
16.	CANDIDATES APPROACHING THE NORMAL RETIREMENT AGE	10
17.	INDUCTION	10
18.	WHO DEALS WITH COMPLAINTS	11
	Compliance	11
	Monitoring Arrangements	11
APPENDIX1	Employment Legislation	13

1. INTRODUCTION

- 1.1 The purpose of the recruitment and selection framework is to provide efficient and effective recruitment and selection which is crucial to the successful functioning of the Herefordshire Council and NHS Herefordshire.

2. SCOPE

- 2.1 The recruitment and selection framework applies to all employees of Herefordshire Council and NHS Herefordshire. It should be used for any appointment requiring a selection procedure.

It is recommended that the framework and general principles apply to schools.

3. PRINCIPLES

- 3.1 The organisation recognises and values the diversity of its workforce and communities and wants to ensure that all the attributes, talents and skills available throughout the community are recognised when employment opportunities arise. Its principle is that jobs should be filled by those best able to do them. This framework links with the Workforce Strategy 2009 -12 and aims to illustrate how the organisation intends to recruit, retain, develop and deploy its staff in order to deliver its service plans within a framework of high quality governance arrangements.
- 3.2 The organisation will draw on a wide range of people with a variety of skills and talents to manage and deliver its services, concentrating positively on the real requirements of the jobs and the individual abilities of people who seek employment with the organisation. It will seek to maximise their effectiveness and utilisation and develop them fully whilst remaining sensitive to their needs, flexibility requirements and aspirations. The organisation will promote, consider and accommodate flexible working patterns such as part time, job share, self-rostering, compressed hours, annualised hours, term time hours, career breaks etc. subject to service needs.
- 3.3 The organisation will take every possible step to ensure that its staff, and potential staff, are all treated fairly and given equal opportunity and support appropriate to their needs. All employment decisions including those on recruitment, selection, promotion, training and career development, are based solely on job related objective criteria.
- 3.4 Everyone who works in the organisation, or applies to work in the organisation, will be treated fairly and valued equally. The organisation is committed to eliminating all forms of discrimination and is committed to equality and diversity. By enforcing this framework, the aim is to ensure no employee, job applicant or trainee receives less favourable treatment directly or indirectly on the grounds of sex, race, colour, nationality, ethnic or national origin, disability, marital status, sexual orientation, gender, responsibility for dependants, age, trade union or political activities, religious or spiritual beliefs, domestic circumstances,

gender reassignment, HIV/Aids status, political affiliation, Trade Union membership or is disadvantaged by any conditions or requirements which cannot be justified. This framework should be read with the appropriate Equality Policy.

- 3.5 Employment Legislation must be adhered to at all times as outlined in Appendix 1 of the framework. Those applicants who are disabled and meet the essential criteria for the position to which they have applied will be short listed and interviewed. All reasonable adjustments shall be made for the interview or selection process and to the job itself where specific requirements are identified.
- 3.6 It is in this way - through fair, open and transparent recruitment, selection and development – that the organisation and its workforce can work towards and achieve its vision of providing high quality services to the people of Herefordshire.

4 KEY POINTS

- 4.1 Recruitment and Selection framework and toolkit must abide with Local Government Employers, NHS Employers and Department for Children, Schools and Families guidelines.
- 4.2 The recruitment process must be fair, open and transparent and ensure equality of opportunity and consistency.
- 4.3 It must provide the flexibility to develop capacity of the existing workforce and simultaneously open up employment opportunities to the external community.
- 4.4 It must promote the organisation as ‘employer of choice’ to enhance the organisation image and attract appropriate applications.
- 4.5 It must adhere to the law and the spirit of the law, the organisation policies and apply best practice.
- 4.6 Applicants must be given a clear understanding of the post and what would be expected of them.
- 4.7 Appointing Managers must be trained or able to demonstrate equivalent experience, knowledge and skills to ensure best recruitment and selection practice and attend regular refresher training.
- 4.8 In all cases the Appointing Manager must review the requirements of the vacant post in terms of the funding available, roles and responsibilities, health and safety risks, skills and competencies required, and hours to be covered. This review must also consider whether the post needs to be filled, whether the duties could be absorbed within the department or if new roles and ways of working can be established.
- 4.9 Any permanent change to establishment in the year needs to be signed off in accordance with relevant process:
- | | |
|------------------------------|------------------------------------|
| Herefordshire Council | Establishment Control |
| NHS Herefordshire | Work Structures (ESR) |
| Schools | Individual School’s Governing Body |
- 4.10 Job descriptions and person specifications must be reviewed and appropriate job evaluation undertaken where required*. The person specification must show experience, skills, knowledge, abilities, education and qualifications, personal attributes, competencies and aptitude which are deemed necessary for the safe and effective performance of the job, and to ensure that only objective criteria are used to determine a candidate’s suitability for a post.

(*Schools have national job criteria for teaching posts and the NHS also use the Key Skills Framework for posts).

- 4.11 An appropriate recruitment authorisation must be obtained for every vacancy and a copy retained on the interview file to maintain a complete audit trail.
- 4.12 Selection must be valid and justifiable and based on job related objective criteria.
- 4.13 Selection decisions must be supported by objective written evidence (retained for 6 months). Feedback must be offered to candidates on their performance / application.
- 4.14 Pre-employment checks must comply with legislation and the relevant Local Government guidelines, NHS Employment Check Standards and the Department for Children, Schools and Families Safeguarding Children and Safer Recruitment guidelines.
- 4.15 Particular considerations apply to young workers aged 18 or under and candidates approaching the normal retirement age of 65.
- 4.16 Recruitment is just the start of someone's introduction to an organisation – Appointing Managers should ensure they induct and develop the worker throughout their time with the organisation.

For further information, see the Recruitment and Selection Toolkit.

5 WHO MAKES APPOINTMENT DECISIONS

5.1 Joint Senior Appointments

- 5.1.1 Joint Senior Appointments recruitment and selection will be in accordance with the joint working arrangements.

5.2 Council

- 5.2.1 The appointment of **Chief Officers (Directors)** will be made in accordance with the Council's constitution (Part 4, Officer Appointment Employment Procedure Rules).
- 5.2.2 Appointing Managers have responsibility to make all other appointment decisions.

5.3 Schools

- 5.3.1 All recruitment and selection must comply with the School Staffing Regulations.
- 5.3.2 For **head and deputy head teacher** posts, this responsibility is delegated to an appointed panel. They are required to shortlist and interview candidates and make a recommendation to the full Governing Body who make the final appointment decision. Under the provisions of the Education Act 1996, the Director of Children's Services (or nominated representative) has a duty to offer advice in head teacher appointments, and the panel have a duty to take this advice into consideration. They are therefore entitled to attend all selection proceedings. For a Voluntary Aided School, the Diocesan Director (or nominated representative) must be included.
- 5.3.3 For **school based staff**, appointment decisions are the responsibility of the relevant governing body. For the majority of posts, this responsibility is delegated to the school's head teacher and/or senior staff.

5.4 NHS Herefordshire

- 5.4.1 For appointments of **Executive Board Directors and other senior posts** the selection process should include at least one external

assessor, ideally two, (e.g. Strategic Health Authority Finance Director for Director of Finance; Strategic Health Authority Nursing Director for Director of Nursing) and a person of standing and experience in the appropriate field and should be selected by NHS Herefordshire in consultation with the Strategic Health Authority. If there is no-one in the Strategic Health Authority with the appropriate professional background, both assessors should be appointed by NHS Herefordshire, taking advice from the Strategic Health Authority Chief Executive. Both assessors should be involved throughout the selection process as agreed by NHS Herefordshire and Strategic Health Authority on a case-by-case basis.

NHS Herefordshire have the right to appoint the candidate of their choice, but they are expected not to appoint a candidate placed below the line by both external assessors. At final selection stage NHS Herefordshire should give due weight to the external assessors' assessments of the merits of the candidates.

- 5.4.2 For appointments of **Consultants** an Advisory Appointments Committee (AAC) shall be set up in accordance with the NHS's Appointment of Consultants Regulations. The AAC will consist of the a lay member (chair or another non-executive director); an external professional assessor (appointed after consultation with relevant college or Faculty); Board level Executive or Associate Director; medical or dental director of NHS Herefordshire or relevant director of public health for public health appointments and a consultant from NHS Herefordshire with relevant speciality. In the case of appointments to posts which have either teaching or research commitments or both, the committee must also include a professional member nominated after consultation with the relevant university.
- 5.4.3 Appointing Managers have responsibility to make all other appointment decisions.

6 RESPONSIBILITIES OF APPOINTING MANAGER

- 6.1 The Appointing Manager must ensure that they are fully trained or able to demonstrate from previous experience that they have the skills and knowledge required to successfully implement this policy and recruit and select in a fair, objective and open way. This should include an understanding of the Equality Policy and relevant employment legislation.
- 6.2 The organisation provides a Recruitment and Selection Toolkit which is available on the Intranet. Appointing Managers are required to have an understanding of their role and responsibilities and if the posts they are recruiting to involves working with children appointing managers must have received training on safer recruitment.
- 6.3 Where an applicant has indicated that they know or are related to an existing employee, it is the responsibility of the Appointing Manager to ensure that this person is not involved in the appointment, or the decision making process of the appointment. Appointing Managers must ensure that the recruitment decisions are based solely on assessment through the appointment process. Any potential conflict of interest should be declared in advance of shortlisting.

7 RESPONSIBILITIES OF THE HUMAN RESOURCES SERVICE

The role of the Human Resources Service is to:

- 7.1 Establish and maintain systems which enable managers to recruit and select staff objectively and within the law.
- 7.2 Provide high quality professional advice and support to managers as appropriate.
- 7.3 Provide training to managers and staff involved in the recruitment and selection process.
- 7.4 Notify managers of any changes and developments in legislation, terms and conditions and policies and procedures.
- 7.5 Regularly review the recruitment process to ensure best practice and provide efficient and effective methods to attract high quality candidates in a cost effective manner.
- 7.6 Be involved in recruitment career events and liaison with schools, colleges and external organisations in the community to support recruitment activities and work placements.
- 7.7 Work with external organisations to actively promote diversity within the workforce.

8 STANDARDS OF GOOD PRACTICE

- 8.1 The following standards should be applied to all recruitment and selection within the organisation:
 - 8.1.1 Clear documentation of procedures must be provided, kept up to date and made easily available to all relevant parties.
 - 8.1.2 When materials are updated, all out of date forms, letters etc must be destroyed.
 - 8.1.3 All documentation relating to recruitment and selection must be attributable (title of creator) and dated.
 - 8.1.4 All documentation must meet requisite standards in relation to legislation and other key guidance e.g. equal opportunities, safer recruitment, data protection.
 - 8.1.5 Any new legislation, case law, guidance from Local Government, Department of Health and Department for Children, Schools and Families affecting recruiting and selection practice must be incorporated into the framework and toolkit, as soon as possible, to ensure strong knowledge management practice and avoidance of disparate guidance materials.
 - 8.1.6 Appropriate quality and level of training must be provided on recruitment and selection for all recruiting staff.
 - 8.1.7 Regular audits should be undertaken on current paperwork and take action to correct any issues identified.
 - 8.1.8 Head of HR Services should assess recruitment risks on a regular basis and agree an audit plan at the start of each financial year.

9 REDEPLOYMENT

- 9.1 Where individuals are affected by organisational change specific selection processes apply in the case of redeployment. Discuss with Human Resources Services.

For further information, see Herefordshire Council's 'Managing the impact of organisational change' policy and procedure' or the NHS Herefordshire's 'Operational policy – Management of Change' or School Redundancy procedure **relevant to organisation and role**.

10 FIXED-TERM APPOINTMENTS

- 10.1 A fixed term contract is one that lasts for a distinct period of time. Such contracts are necessary where:
- funding for the post is time limited
 - the post is required to cover long term absence (e.g. maternity leave)
 - the post is required to fulfil a specific time limited piece of work.

For further information, see Fixed-Term guidance.

11 SECONDMENTS

- 11.1 A secondment is the temporary loan of a member of staff to another part of the organisation or to another organisation, or the acceptance of a member of staff from another organisation into the organisation for a specific purpose. Most common purpose will be:
- to fill a vacancy where the host department, directorate or organisation lacks the expertise to undertake a specific piece of work
 - for personal or career development
 - as a transition to retirement

Secondment offers employees / individuals career development opportunities and the organisation the chance to develop its skills base.

Secondment selection procedure must be fair and transparent and meet equality requirements and best practice.

A secondment can be anything from part time for a few weeks to full time for several months, with a maximum period of one year. The duration of a secondment should be agreed between the parent manager (parent organisation is the employer), the host manager (day to day manager during secondment) and the secondee (member of staff). Regular review meetings should take place between all three parties.

For further information, see Secondment Policy.

12 POLITICALLY RESTRICTED POSTS (COUNCIL STAFF)

- 12.1 The Local Government and Housing Act 1989 impose restrictions on political activities by employees who hold certain categories of posts. This includes Chief Executive, Chief and Deputy Chief Officers, all posts at or above SCP44 and any posts that are 'politically sensitive' i.e. giving advice on a regular basis to Members or speaking on behalf of the Council on a regular basis to journalists or broadcasters. For further information, see Politically Restricted Posts within the Recruitment and Selection Toolkit.

13 TEMPORARY WORKERS (AGENCY /BANK/LOCUMS)

- 13.1 The organisation aims to fill all vacant posts with directly employed staff. The use of agency staff must therefore be kept to a minimum and used for short term or emergency staffing needs only. Where agency staff are required, they must be recruited from agencies that are under contract or preferred supplier agreements with the organisation. These agencies provide preferential rates and have agreed minimum quality standards in place. For further information on contracts and procedures, see the Recruitment and Selection Toolkit.

14 APPRENTICESHIPS AND WORK PLACEMENTS

- 14.1 The organisation recognises that apprenticeships and work placements are an important element of the workforce for the contribution they devote to the organisations' services. Whilst not enjoying all of the rights or bearing all of the responsibilities of employees, they are nonetheless required to operate within organisations' policies, procedures and guidelines. For further information, see the Recruitment and Selection Toolkit.

15 EMPLOYING YOUNG PEOPLE

- 15.1 The organisation complies with the legal requirements of employment for young workers:

15.2 Children aged 16 or under

Children who are legally required to attend school (generally aged 16 or under) may be employed in limited circumstances for specified periods of time per day and per week between 0700 and 1900 hours.

15.2.1 There are categories of prohibited employment for children of compulsory school age. Those categories likely to be of most relevance to the organisation are:

- the personal care of residents in any residential care home or nursing home
- work in a clinical area
- work in a commercial kitchen
- collecting and sorting refuse – such duties many form part of some cleaning jobs

15.2.2 Employers engaging children under 16 have a legal responsibility to apply for an Employment Card within four days of the start of employment

15.3 Workers aged 16 and 17

For workers over the minimum school leaving age, but under 18, restriction on the number of hours worked and other safeguards still apply. The safeguards include the right to a National Minimum Wage, redundancy pay, paid time off for study or training and the requirement for a risk assessment to be carried out with a special duty to consider the impact of young workers' immaturity and inexperience on their health and safety in the workplace.

15.4 Young Workers aged over 18

There are still some special responsibilities to young workers in respect of pay and training, even when they are over the age of 18. Further information available from Human Resources Services.

16 CANDIDATES APPROACHING THE NORMAL RETIREMENT AGE

16.1 The organisations operate a 'normal retirement age' (NRA) of 65 although certain employees who are members of the Local Government, National Health Service or Teachers Pension schemes (in England and Wales) may have an earlier NRA as specified by the rules of their scheme.

16.2 Where the preferred candidate for the post is older than, or within six months of the NRA, managers should seek approval from the Human Resources Services before making an appointment.

16.3 When reaching a decision about whether or not to appoint, consideration should be given to the business needs and efficiency of the service; the health, welfare and safety of the individual and the particular training requirements of the job. Where it may reasonably be considered that length of induction, or investment in training for an individual exceeds the period of time in which they are likely to remain in employment, a decision should be made not to recruit.
For further information, see Retirement policy.

17 INDUCTION

17.1 All new employees must attend the mandatory Corporate Induction programme as soon as possible after commencing employment.

17.2 All new employees, or staff appointed to a new post, must complete a local level induction to ensure that they:

- understand the role they are expected to undertake
- understand the boundaries of the role
- are aware of the organisations' policies and procedures
- are introduced to colleagues
- are given access to information on their work location, including the practicalities of facilities on site (washing facilities, eating facilities, access to building and exits, fire emergency procedures, etc)

This process must take place as soon as possible after starting in post.

- 17.3 All new employees must attend the relevant statutory and mandatory training appropriate to their role. Some occupational groups such as nursing and medical staff must attend a specific induction programme before commencing their duties to ensure compliance with mandatory / statutory clinical training e.g. infection control, CPR.
- 17.4 All new employees must attend a half day's training on equality and diversity.
- 17.5 All new employees must attend a half day's training on health and safety.
- 17.6 On completion of the induction, an induction checklist must be signed off by the employee and the line manager and a copy kept in the personal file for audit purposes.
- 17.7 All other workers must receive information on the expectations, key policies and geography of the area they are working in, to enable them to work in a safe and effective way e.g. temporary agency workers, short term temporary staff, locums, apprentices, those on work placements / experience, secondees, volunteers, contractors.

For further information, see the Recruitment and Selection Toolkit.

18 WHO DEALS WITH COMPLAINTS

- 18.1 Complaints should be made to the appointing manager who will seek advice, where necessary, from the Human Resources Service. If the complaint involves the appointing manager, complaints should be directed to the next most senior manager. The appropriate procedure should be followed dependant on individual circumstances - complaints (not employees) or grievance procedure (employees).

Compliance

The Joint Management Team is responsible for implementing this framework.

There is an expectation that this framework will be adopted by all School Governing Bodies. School Governing Bodies are responsible for annually reviewing their policy and ensuring safe and effective recruitment arrangements are in place.

The Head of HR Services will be notified of any cases where it is concluded that the framework was breached. The notification will indicate whether there are any changes or improvements required to the framework, toolkit, policies, procedures, learning and development, support or any other aspect of the organisations approach.

Monitoring Arrangements

The Human Resources Service will monitor the effectiveness of the framework through the following;

- *Regular internal audit of the recruitment process, including pre employment checks*

- *Listening to feedback from managers, staff and applicants (praise and complaints).*
- *Quarterly Advertising expenditure*
- *Quarterly report on Exit interviews – monitoring reasons for leaving / staff turnover*
- *Monitoring of recruitment and selection data in relation to equal opportunities*
- *Recruitment and Selection Training monitoring, initial training followed by three year certification plus specific safer recruitment where applicable*
- *Annual report on Recruitment activity*
- *Annual Employee Opinion Surveys / 'Customer Satisfaction surveys*
- *Monitoring of Service Level Agreements with external bodies i.e. agencies*
- *Annual returns to the Office of National Statistics*
- *External audits, e.g. Audit Commission, Healthcare Commission, Ofsted, Quality Care Commission, Investors in People*
- *Review framework after three years unless circumstances demand a review before then*

Training and Awareness Requirements

- Interview panel members must hold a valid recruitment and selection certificate and undertake re qualification of fitness to practice every three years.
- Schools – At least one member of the interview panel should be appropriately trained in Safer Recruitment practice. This is a mandatory requirement with effect from 1st January 2010. The Recruitment and Selection framework and toolkit should provide support to schools on safer recruitment.
- Human Resources Services staff involved in recruitment and the recruitment and selection support staff must be compliant with the recruitment and selection framework and toolkit and appropriate training provided.
- Directorates / Services management must ensure that interviewing managers attend recruitment and selection training and hold a valid certificate before interviewing for posts.

Employment Legislation

Outlined below are the main aspects of the legislation covering the recruitment and selection process. These are in no way exhaustive and should you require guidance contact Human Resources.

EQUALITY LEGISLATION

It is important to ensure that no present, future member of staff or applicant for a job receives unfavourable treatment on the grounds of their race, gender, disability, nationality, ethnic origin, religion or religious belief, marital status, sexual orientation or age. There are eight strands of equality:

1. AGE

The Employment Equality (Age) Regulations 2006 & Age Discrimination in Employment Act 2007 (ADEA) are the first defense against age discrimination. There has to be a lawful reason - not connected to age - for almost all employment decisions. Careful consideration should be given to ensuring that job descriptions, person specifications and selection criteria do not directly or indirectly discriminate against potential applicants on the basis of age.

2. DISABILITY

Disability Discrimination Act 1995 and 2005 states that disabled people must be given the opportunity to compete for jobs and exercise their skills and abilities to gain access to goods and services on a fair and equal basis. The Act makes it unlawful to discriminate against current and prospective employees due to a reason relating to their disability. The organisations are committed to equal opportunities in employment for people with a disability and welcomes applications from disabled people for all of our vacancies.

Disability Equality Duty (2006) states public bodies have a duty to actively promote equality and publish equality schemes on disability.

3. GENDER

Equal Pay Act 1970 states that it is unlawful to treat an employee of one sex less favourably in respect of pay and terms and conditions of employment than another employee of the opposite sex who does the same or broadly similar work. Or work rated as of equal value or as equivalent under a job evaluation scheme.

Sex Discrimination Act 1975 and 1986 and 1999 states that it is unlawful to discriminate directly or indirectly on the grounds of gender or marital status or gender reassignment. To apply requirements or conditions which have a disproportionately disadvantageous effect on people of a particular gender or marital status where these cannot be justified. It is also unlawful to apply pressure to discriminate or to aid discrimination by another person.

The Equality Act 2005 (Gender Equality Duty) states public bodies have a duty to actively promote equality and publish equality schemes on gender.

Gender Recognition Act 2004 gives transgendered or transsexual people full legal recognition of change of gender and the right to privacy. It enables individuals to apply for legal recognition of that gender (Gender Recognition Certificate). It is a criminal offence for any individual who has obtained the information in an official capacity to disclose that a person has (or has applied for) a gender recognition certificate.

4. **SEXUAL ORIENTATION**

Employment Equality (Sexual Orientation) Regulations 2003 states it is unlawful to discriminate on the grounds of sexuality, directly or indirectly; or to harass or victimise somebody because they have made a complaint or if they give or intend to give evidence to a complaint of discrimination. This includes orientation towards someone of the same sex (lesbian or gay men), opposite sex (heterosexual) or both sexes (bisexual).

5. **RACE AND ETHNICITY**

Race Relations Act 1976 and Race Relations Amendment Act 2000 states that it is unlawful to discriminate directly or indirectly on the grounds of race, colour, nationality, ethnic origin and national origin. Or to apply requirements or conditions, which have a disproportionately disadvantageous effect on people of a particular race, colour nationality, ethnic origin and nationality where these cannot be justified. It is also unlawful to apply pressure to discriminate or to aid discrimination by another person. The Race Relations Amendment Act 2000 reaffirms the 1976 definition of unlawful discrimination; however it closes the gap on the accountability of public bodies by imposing a general duty to promote racial equality. "One of the government's central aims is to achieve a society where there is respect for all, regardless of their race, colour, creed and a society that celebrates its cultural richness and ethnic diversity. In doing this, the government wants the public sector to set the pace in the drive for race equality, to lead by example."

Duty on public bodies to actively promote equality and publish equality schemes on race.

6. **RELIGION AND BELIEF**

Employment Equality (Religion or Belief) Regulations 2003 made it unlawful to discriminate on the grounds of religion or belief, directly or indirectly; or to harass or victimise somebody because they have made a complaint or if they give or intend to give evidence to a complaint of discrimination.

Public authorities that discriminate against employees on the grounds of religion or belief could also receive a claim under the Human Rights Act 1998.

'Religion' means any religion and 'belief' means any religions or philosophical belief.

7. **CARERS**

The Employment Act 2002 gives working parents of disabled children under 18 the right to request flexible working arrangements.

The Carers (Equal Opportunities) Act 2004 & The Work and Families Act 2006 further extended the legal rights and protection for carers at work and sets out the right of parents of children under 6 (or 18 if child disabled) to request flexible working. Employees who have worked for their employer for at least 26 weeks can apply to make a permanent change to their terms and conditions.

Since 6 April 2007, employees also have a statutory right to request flexible working if they are caring for an adult who is a relative or lives at the same address e.g. changing hours, compressed hours and working from home,

There are also long existing provisions (within the **Employment Relations Act 1999**) giving employees the right to take (unpaid) time off for dependants in cases of emergency.

The legislation defines a carer as someone who cares for, or expects to care for, a husband, wife or partner, a relative such as a child, uncle, sister, brother, parent in law or grandparents, or someone who falls into neither category but lives at the same address as a carer.

8. HUMAN RIGHTS

The Human Rights Act 1998

The Human Rights Act applies to all public authorities and makes it unlawful to violate the rights contained in the Act.

Human rights are those ascribed to individuals by the Human Rights Act, including (but not limited to) the right to:

- life
- liberty and security
- respect for private and family life
- freedom of expression
- freedom of thought, conscience and religion

9. FIXED TERM

Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002 underpinning aim is that fixed-term employees should not be treated less favourably than comparable permanent employees on the grounds they are fixed term employees, unless this can be objectively justified.

10. PART TIME

Part Time Workers (Prevention of Less Favourable Treatment) Regulations 2000 makes it unlawful for part time workers to be treated less favourably than full time workers. Part time workers should receive the same hourly rate as full timers. A lower hourly rate should only be given if it can be justified on objective grounds.

(The Single Equality Bill, currently under consultation, is likely to replace points 1 - 7 in the autumn of 2010).

RIGHT TO WORK IN THE UNITED KINGDOM LEGISLATION

Immigration, Asylum and Nationality Act 2006 states that it is unlawful to employ someone who does not have permission to be in or to work in the United Kingdom. Proof of the right to work must be sought prior to taking up employment. Employers must be aware of their responsibilities in relation to the Act, but must ensure that they do not act in a discriminatory way in applying this legislation.

UK Borders Act 2007

The Act strengthens the powers of immigration staff, such as in investigating and prosecuting legal breaches. Border and Immigration Agency 'Account Managers' and other immigration staff can now visit employer's premises to ensure no illegal workers are present. The 'search and arrest powers' is a significant extension of the powers of the immigration officers. Immigration Officers can check personal and recruitment files to ensure compliance with the Immigration, Asylum and Nationality Act.

SAFEGUARDING LEGISLATION

Rehabilitation of Offenders Act 1974 (Exception Orders 1975 and 1986) states that if no further offences are committed, and according to the severity of a sentence imposed, a person has a right to class that conviction as "spent" after a set period and does not have to reveal it. These "spent" sentences should, therefore, not be used to exclude people from employment or promotion. However in certain occupations, any convictions, whether spent or not, have to be disclosed. For many roles, within the Health Service and Schools, applicants will have to disclose all convictions if they will be working with children and vulnerable adults.

The Protection of Children Act 1999 (POCA) makes it an offence for any organisation to offer employment involving regular contact with children to anyone who has been convicted of certain specified offences, or is included on lists of people considered unsuitable for such work held by the Department for Education and Skills and the Department of Health. It is also an offence for people convicted of such offences to apply for work with children. Schedule four of the **Criminal Justice and Court Services Act 2000** lists the offences that would automatically bar the offender from working with children. These include various kinds of violence and sexual offences.

Care Standards Act 2000 (England and Wales only) aims to protect vulnerable people who use care services. It creates a Protection of Vulnerable Adults (POVA) list, similar to the provisions for children. Individuals are included on the list if they have abused, neglected or otherwise harmed vulnerable adults whether or not in the course of employment; acting as a workforce ban.

Safeguarding Vulnerable Groups Act (2006) (SVA) has introduced the Independent Safeguarding Authority (ISA) who are rolling out the new Vetting and Barring Scheme (VBS) from 12 October 2009 to July 2010. The ISA are working with the Criminal Records Bureau and are introducing two new lists (Children and Adults) barring individuals from working with children and vulnerable adults. These lists will replace the POCA and POVA lists.

OTHER LEGISLATION

Data Protection Act 1998 defines certain types of information as 'sensitive data' and restrictions are imposed on employers. An employer must ensure personal data of an individual is managed, protected and processed correctly. In addition, an employer must ensure that the individual (data subject) has the rights to access the personal data held on them.

Conduct of Employment Agencies and Employment Business Regulations 2003 requires employment agencies to vet temporary staff who work with vulnerable groups such as children, the elderly and the infirm. They are required to carry out additional checks including obtaining copies of relevant qualifications, two references and taking all reasonable steps to confirm the individual's suitability for the post. If new, adverse information later emerges, they must withdraw the temporary worker or inform the employer where the worker has been supplied on a permanent basis.

HEALTH & SAFETY AT WORK legislation requires employers to ensure satisfactory levels of health, safety and welfare are maintained in the workplace for all workers.

Management of Health & Safety at Work Regulations 1999, in particular regulation 19 (Protection of Young Persons).